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Degree of Master of International Studies
(International Area Studies)

The Role of the International Criminal
Court in Peace Development in D.R.
Congo since 2004

August, 2019

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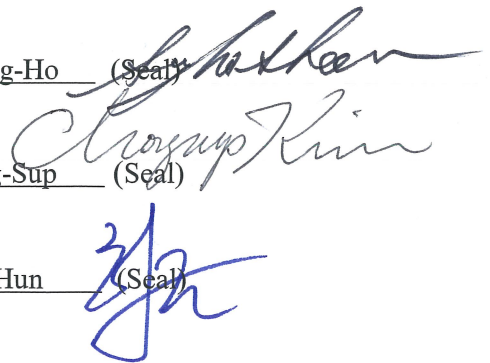
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ABSTRACT

The Role of the International Criminal Court in Peace Development in D.R. Congo since 2004

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The purpose of this study was to understand whether or not the role of the International Criminal Court (ICC) is effective in peace building process in DR Congo. Specifically, the study looked at the attitudes of Congolese citizens towards the work of ICC, the influence of ICC on strengthening domestic institutions to guarantee peace, as well as the overall promotion of peace in DR Congo.

The study adopted concurrent triangulation design that promoted the use of both quantitative and qualitative approaches. A combination of purposive and stratified sampling techniques was used to sample 150 respondents comprising of: human rights activists, lawyers, local opinion leaders, and students. Data collected was analyzed using descriptive analysis statistics like percentages and frequencies, and presented in form of graphs and tables with the contribution of the Statistical Package for Social Sciences (SPSS, Version 20) software, and backed up by views of experts such as representatives of civil society, representatives of ICC, and journalists, collected from interviews.

The study key findings proved two hypotheses out of three. Firstly, the study found a negative relationship between attitudes of Congolese citizens and the role of ICC. The negative attitude of citizens was attributed to their high expectations from ICC, and the court's decision to arrest Jean Pierre Bemba, a Congolese personality considered as the

alternative to power of President Kabila. Secondly, the study accepted that interventions by ICC were significant in strengthening domestic institutions to guarantee peace. Further findings revealed that ICC has modified the entire Congolese legal order with a range of institutional reforms, introduced to adapt Congolese law to the agreement of ICC. Finally, the study judged the ICC's involvement in DR Congo influential in overall peacebuilding processes. It found that arrests of key criminals for use of children in armed forces and militia groups have increased awareness that children should not be used in armed forces; therefore, contributed to narrowing use of children in different armed groups, etc.

The substantial implication of this study is the acceptance of the role of ICC as effective in peacebuilding process in DR Congo.

Key Words: International Criminal Court, Peace Development, post-conflict Society

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ABBREVIATIONS AND ACRONYMS

DRC	:Democratic Republic of Congo
CAR	:Central African Republic
FARDC	:Congolese force Army (Forces Armées de la RDC)
FNI	:Front des Nationalistes et Intégrationnistes
FPLC	:Forces Patriotiques pour la libération du Congo
ICC	:International Criminal Court
ICTR	:International Criminal Tribunal for Rwanda
ICTY	:International Criminal Tribunal for Former Yugoslavia
IDP	:Internally Displaced Persons
NIMT	:Nuremberg International Military Tribunal
OTP	:Office of the Prosecutor
SGBV	:Sexual and Gender-Based Violence
TIMT	:Tokyo International Military Tribunal
UN	:United Nations
UNGA	:United Nations General Assembly
UNHCR	:United Nations High Commissioner for Refugees.
UNICEF	:United Nations International Children's Emergency Fund.
UNSC	:United Nations Security Council
UPC	:Union of Patriotic Congolese
WFP	:World Food Program

CHAPTER ONE: INTRODUCTION TO THE STUDY

1.1. Introduction

The violent conflict in Democratic Republic of Congo (DR Congo) between the years 1996 to 2003 resulted in genocide and commission of worst crimes against humanity. The conflict also caused perpetration of serious atrocities leading to death of millions of people, large displacement of people and destruction of property. It is in this context that the government of DR Congo found it necessary to refer situations to the ICC in the year 2004. In response to the referral, the Court's prosecutor launched investigations against key suspects and succeeded in arresting and jailing Jean Pierre Bemba and Thomas Lubanga Dyilo, convicting Germain Katanga while Mathieu Ngudjolo Chui was acquitted of any wrong doing after 4 years of arrest. In addition, court failed to confirm charges against Callixte Mbarushimana while Bosco Ntaganda turned himself in to the US Embassy in Kigali on March 2013, requesting to be extradited to the ICC (ICC, 2015).

This study focused on the role of ICC in peace building processes of DR Congo with a view of establishing whether ICC has succeeded in enhancing peace and stability in a conflict stricken country of DR Congo. It emphasizes that in divided societies such as DR Congo, where mass atrocities and systematic abuses made the conditions of the country very fragile, the role of the international organizations like ICC is very important to help develop durable peace.

1.2. Background of the Study

Peace development encompasses a wide range of strategies tailored towards lowering probabilities of conflicts by strengthening capacities of domestic institutions (UN, 2007). Besides, the overall aim of peace development is: “to mitigate recurrence of conflict; developing structures and incentives for peaceful mitigation of conflicts; incentivizing elite commitment to peace processes, while laying the groundwork for those processes to be made more inclusive over time; establishing a framework for political, security and economic transition; jump-starting recovery; demonstrating peace dividends by meeting the urgent needs of the population”.

Globally, incidences of disharmony and discord including violent conflict continue to inflict fear and pain across many countries in the world. In Syria, the ongoing conflict is marred with some of the worst crimes against humanity such as lethal force to suppress peaceful civil protests causing injuries and death as well as massive destruction of property and recreational facilities across Syria. The United Nations estimates that the political crisis in Syria has resulted in the deaths of more than 400,000 persons since the war began in 2011 (High Commission for Human Rights, 2015). Equally, the Syrian government has been accused of serious violation of human rights including deliberate disregard of safety and well-being of its citizens. The deliberate move by the government to unlawfully kill, torture, and detain persons on a wide scale in disregard of the law was a sign of impunity.

In Europe, liberal peace has been used to explain the post-war stability of

Europe (Richmond, 2014). After World War II, “the Soviet Union’s economy had been devastated and about a quarter of the country's capital resources had been destroyed, and industrial and agricultural output in 1945 fell far short of prewar levels.” As way of reconstructing the state, the government of Soviet got endorsement credits from Sweden and Britain, but declined the economic assistance extended by the UN “under the Marshall Plan”. Besides, the Soviet Union forced countries of Eastern Europe to avail machinery and raw materials. In addition, Germany and former Nazi satellites compensated the Soviet Union. However, the Soviet people incurred a lot of costs in reconstruction because the program relied on heavy industry while neglecting agriculture and consumer goods.

In Africa, many countries faced challenges in realizing lasting peace even though the UN peacekeeping missions has often led to the cessation of hostilities in some countries. For instance, in the Central African Republic, violence reoccurred once the peacekeepers left in 2000 (Grey-Johnson, 2006). Besides, in Burundi, objectives to strengthen the justice sector are some of the approaches used in peace building. Enhancing peace also requires; strengthening the legal and judicial frameworks and institutions, expanding access to justice, especially to the poor, marginalized and conflict-affected groups and developing supporting mechanisms, including non-formal and traditional systems, for the peaceful resolution of conflicts, at the central and local level. In countries such as South Sudan, Liberia and Sierra Leone, long-term objective of promoting peace involve broader reforms of the formal legal and judicial frameworks aimed at improving

access to justice and enhancing capacities for peaceful settlement of disputes. Equally, initiatives including and truth and reconciliation commissions, land commissions, establishment of governance and anti-corruption commissions, help to address historical injustices that often breed violence and conflict (UN, 2009).

In DRC Congo, civil wars and complex violence between the years 1996 and 2003 caused instability and widespread discord that tore the country apart. Equally, the recent armed conflict which followed after the disputed by elections in 2006 have put the country on a precarious situation towards full realization of peace. During the conflict, major crimes were committed including unlawful killing; “sexual and gender-based violence (SGBV) including rapes, abductions, torture and other cruel, inhuman, and degrading treatment and punishment; and widespread impunity and corruption throughout the government.” Additionally, human rights challenges including kidnap and abduction, severe detention without trial; abuse of internally displaced persons, arbitrary interference with privacy, retention and recruitment of child soldiers, increased intimidation of political and civil rights activists and journalists, and restrictions on the ability to change the government peacefully. The conflict also increased social inequality and abuse, mainly against women; children; persons with disabilities; ethnic minorities; indigenous persons; lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons “(U.N. Office of the High Commissioner for Human Rights, 2015).”

Some regions of DR Congo still in conflict, humanitarian crises and grave violations of human rights especially “sexual and gender-based violence”. The

cycle of violence is maintained by the persistent presence of local and foreign armed groups which are taking advantage of the power and security vacuum in the eastern region, “the illegal exploitation of resources”, the interference of neighbouring countries, widespread impunity, inter-community confrontation and the inability of the army and the national police to protect civilians and the national territory and to maintain the rule of law and order (Alan, 2009). These recurrent outbreaks of violence remain an obstacle to peace in the DR Congo and threaten the stability and development of the entire country.

Following recurrent conflict and commission of heinous crimes between the years 1996 to 2003, the government of DR Congo found it necessary to refer the case to the International Criminal Court (ICC) for investigation and prosecution. It is in this context that the government of DR Congo found it necessary to refer the case to the International Criminal Court (ICC) in the year 2004. Following the referral, the ICC prosecutor opened up investigations against key suspects and the ICC has succeeded in jailing Thomas Lubanga Dyilo, convicting Germain Katanga while Mathieu Ngudjolo Chui was acquitted of any wrong doing. In addition, as the court failed to confirm charges against Callixte Mbarushimana while “Bosco Ntaganda turned himself in to the US Embassy in Kigali on March 2013, requesting to be extradited to the ICC.” The ICC was formed in 2002 at a global conference in Rome as an independent judicial body tasked with a solemn responsibility of ending impunity by prosecuting gravest international crimes including genocide, war crimes, crimes against humanity and crimes of aggression.

The specific aim of the ICC is to bring to justice individual offenders who have perpetrated crimes against humanity and rather does not target countries, nations or governments.

Ideally, the ICC ought to be the last resort of judicial redress but owing to the overriding fact that some perpetrators of crimes against human might be influential and most powerful; the court may be perceived as the best last hope for victims of crimes of heinous proportion. In other words, the ICC can be the last resort for survivors who cannot find judicial redress in their country of origin. The main goal of ICC is to promote justice for the voiceless, deter recurrence of war and conflict. The Rome Statute which founded the ICC indicates that the ICC is mandated to prosecute any offender regardless of the social, political and economic position of the offender. The Statute stresses that even Heads of Government cannot be exempt if accused of committing crimes against humanity (Art 27 of ICC). “This means that any form of presidential immunity is null and void. Examples of heads of states that have been pursued by international tribunals include Kenyatta, Bashir, Taylor, Libya’s Muammar Qaddafi, and the former Yugoslavia’s Slobodan Milošević. Presently, the court has 122 state parties who have ratified the treaty. Out of the 122 states, 34 are from Africa, 18 from Asian – Pacific states, 18 from Eastern Europe, 27 from Latin American and Caribbean States and 25 are from the Western European and other states. The study evaluates the role of International Criminal Court (ICC) in peace building in Democratic Republic of Congo.”

1.3 Statement of the Problem

Violent conflict and discord exists more than a decade later after ICC opened up charges against criminals of atrocities that lasted between the years of 1996 to 2003. Equally, empirical studies on international peacebuilding interventions have ascribed unsuccessful interventions to shortcomings in the adopted approaches. For instance, international intervention in the DR Congo failed to deal with local violence because it did not use appropriate local peacebuilding strategies (Autesserre, 2010).

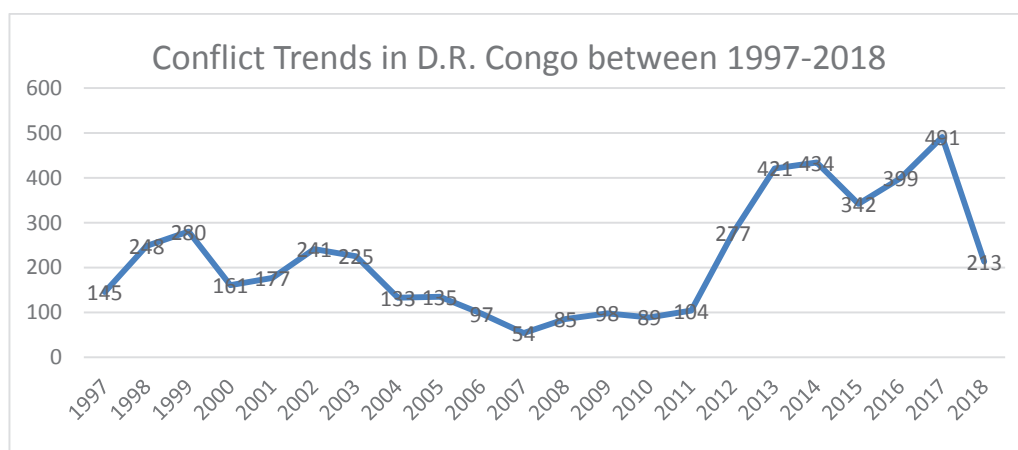
DR Congo is grappled with a myriad of challenges including absence of a State for promoting the rule of law and order, bad governance, negative external influences and disputes over natural resources, control of trade routes, markets and land issues. These factors cause recurrent eruption of war and conflict in most parts of the country. There are approximately 70 residual and splinter armed groups in eastern DRC (Congo Siasa, 2014). Some of them became just criminal gangs sharing a couple of weapons. Among these groups, several of them are foreign and have - or once had - a political agenda in their country of origin (FNL from Burundi, FDLR and ex-M23 from Rwanda, ADF and LRA from Uganda). Other groups are community-based self-defense groups, like the various Maï-Maï entities and Raia Mutomboki. There are armed groups as well with strong ethnic-based profile, challenging each other for ensuring their socioeconomic territory and survival: Pygmies vs Lubas, Hemas vs Lendus, Banyamulenge vs Barundis, Nandé vs Hutus, Bakata-Katanga and Mbororos (Sida-Kinshasa, 2016)

Armed groups in DR Congo are believed to get support from neighboring countries, Congolese politicians and local or international economic operators whose ulterior motive is to benefit from the war through trade and smuggling of illegal products. Across the country, the newly formed installed administrative divisions of DRC which were increased from 11 to 26 provinces are already faced with conflicts among communities and their leaderships competing for land, resources and elective positions, as it is happening now in Kasai Central province. In DR Congo, there are recurrent incidences of blatant violation of basic human rights thereby exposing the citizens to widespread danger and risk. Besides, providing access to humanitarian assistance especially among displaced persons, the injured and even the death remain a big challenge. Also there is an increased risk or a threat of sexual and gender-based violence (SGBV), directly linked to conflict contexts and armed actors, remains a factual reality for women and girls in eastern DRC, but domestic violence as well, as in the rest of the country. According to UNICEF, there are currently around 3,500 boys and girls with armed groups, 10% are girls, and one third is below 15-year-old (UNICEF, 2015). In total, 5.3 million persons are in need of protection and 4.6 million persons are directly affected by conflicts (OCHA, 2016). War and conflict in DR Congo has resulted in massive displacement of people. The incidences of displacement occur repeatedly or either preventively or in dramatic circumstances, and when a territory becomes unsafe for a household to live in and unfit for sustaining a livelihood. Therefore, populations are on the move either in very dynamic or very protracted situations. OCHA reports

3,000 new IDPs a day. Only 20% of IDPs are in camp sites, often spontaneous and unassisted. Most IDPs live by host families sharing their scarce resources with them, estimated 1.3 million persons (Sida-Kinshasa, 2016).

DR Congo is faced with a refugee crisis with around 105,000 CAR refugees have sought asylum in Northern DRC, from South Ubangi to Haut-Uélé provinces, (some of the most difficult provinces regarding logistics due to dilapidated mud-roads, especially during the rainy season from October to March). UNHCR has several camp sites managed with the National Commission for Refugees (CNR): Boyabo, Molé, Inké, Bili and Mboti with quite decent infrastructures. But most refugees, especially those of Muslim confession, are dwelling outside camp sites among host communities (UNHCR, 2016). Renewed violence in January 2015 has caused new influx. UNHCR's and WFP's regional programmes to address this emergency are particularly underfunded.

Figure 1 Frequency of Conflict in DR Congo



Source data: Armed Conflict Location and Event Dataset (ACLED)

The rate of extra-judicial executions and increased violations of human rights threaten the peace and stability of DR Congo. At the local level, leaders are entangled in war of words, fight for limited resources and incitement thereby generating inter-ethnic tensions and violence. The porous situation in DR Congo is worsened by economic collapse leading to the worst economic recession, high cost of living, starvation and slow economic development. The rate of unemployment is extremely high while revenue generation is at its lowest thereby making it difficult for the government to provide essential services such as security, education and health to the public. The worsening of political, social and economic factors in DR Congo has aggravated eruption of war and conflict which has in turn cause massive commission of crimes against humanity. It is in bid to address this challenge that the study examined the role of the International Criminal Court (ICC) in promoting peace in DR Congo.

1.4 Objectives of the Study

This study was guided by general and specific objectives.

1.4.1. Overall Objective

The overall objective of the study was to examine the role of International Criminal Court (ICC) in peace building processes in Democratic Republic of Congo.

1.4.2. Other Objectives

1. To find out the attitudes of Congolese citizens toward the role played by ICC in peace building process in DR Congo.

2. To assess the role of International Criminal Court in strengthening domestic institutions to guarantee peace in DR Congo.
3. To evaluate the overall role played by International Criminal Court in promoting peace in DR Congo.
4. To find out whether intervention by ICC is an effective mechanism of building peace in a divided society like DR Congo.

1.5 Research Question

The aim of this study was to draw general evaluation on the working of the International Criminal Court in Democratic Republic Congo with particular regards on its effectiveness. The following is the question asked:

- Whether or not the role of the International Criminal Court is effective in DR Congo.

1.6 Research Hypothesis

The study posits three hypotheses:

HA₁: The role of ICC has positive influence on strengthening of domestic institutions to guarantee peace in DR Congo.

HA₂: The role of ICC has positive influence on attitudes of Congolese citizens toward the ICC's work in peace development in DR Congo.

HA₃: The role of the ICC has positive influence on the overall peace development in D.R. Congo.

1.7 Justification of the Study

1.7.1 Academic Justification

The study is hoped to benefit academicians, instructors and students in understanding the role played by the ICC in promoting peace in the DRC. The field of peace building is understudied in DRC as most of the existing studies concentrate on the role of ICC in promoting justice thereby negating the fundamental role the court ought to play in enhancing addressing war crimes, humanitarian crisis and building unity and coexistence among warring groups or communities. The current study explores the judicial role, humanitarian role and unity role played by ICC in promoting peace in DR Congo based on perceptions of Congolese citizens and selected experts.

1.7.2 Policy Justification

The study could not have come at the right time. It comes in a period when the world is undergoing through tremendous transformations and DR Congo should not be left behind. After decades of war and conflict which has destabilized the country, it is time for main actors in DR Congo to realize the urgent need of building bridges and reconciliation for a better future. The study will act as an eye opener to policy makers and other stakeholders in charting a course that will bring unity, peace and reconciliation in DR Congo. The study will benefit the government, civil society, private sector and international community in coming up with long-term measures of addressing historical injustices which trigger conflict and violence. In addition, the key players will spearhead initiatives to

promote smooth transfer of power, democracy, inclusivity and equity in the distribution of national resources.

1.8 Scope and Limitation of the Study

The research was confined to the role of International Criminal Court in peace building process in DR Congo. More specifically, the study evaluated the role played by ICC in single case study and based on perception's level. Any gap between perceptions data and objective data will constitute the limitation of this study. However, the advantage of this study is that perceptions of peace in DR Congo can be evaluated by three groups of people, namely, Citizens, Experts, and or ICC's members.

1.9 Theoretical Framework

This section presents the theory on which the current study will be anchored. Key concepts will be examined and contextualized for the current study. The study utilizes the theory of justice and deterrent theory.

1.9.1 Deterrent Theory

The deterrent was proposed by Cesare Bonesana and Marchese Beccaria in 1764. According to deterrence theory, a good criminal justice system and policies will deter individuals from committing crimes, therefore promote peace (Raymond, 2010). "The theory of deterrence imposes a rational choice economic analysis (Gary, 2010). The theory asserts that rational actors will wish to maximize their utility and choose the course of action that will produce the greatest benefits at the

lowest cost. It recognizes that each rational individual may have some unique and different circumstances that inform the cost-benefit calculation (Patrick, 2006).” Nevertheless, deterrence theory assumes individuals make decisions based on rationality of weighing benefits against costs of doing crime. In other words, this means that individuals will refrain from committing an offence when they understand that crime doesn’t pay and those caught are charged or punished.

Deterrence theory projects that “individuals will refrain from committing crimes when the potential benefits of criminal behavior are outnumbered by the potential for legal sanctions that are sufficiently certain, severe, and swift. While some individuals may certainly think that punishment is certain after committing criminal acts, some scholars opine that criminal justice system should not punish all offenders for the purpose of deterring crime or rather exemplary prosecutions may be used to send deterrent message to potential offenders (Diane, 1999).”

Deterrent theory has both supporters and critics. Supporters argue that deterrent theory is pivotal because it describes how prosecutions help to prevent commission of future crimes thereby justifying the essence of involving international justice mechanisms such as the ICC (Alexander, 2007a). While emphasizing the significance of deterrence theory, Professor Bassiouni indicates that “charging individuals at the ICC serves as the best measure for stopping perpetration of criminal activities as well as championing accountability.” The ICC’s supporters share this similar argument. The deterrent argument of

international prosecutions is also supported by Non-governmental organizations who hail ICC as an instrument of mitigating commission of human rights atrocities. Equally, NGOs support universal ratification of the Rome Statute in order to deter crime. According to Kofi Annan, the former U.N. Secretary-General, ICC plays a deterrent effect against individuals who wish to commit offences that go against the Rome Statute (Alexander, 2007b). Equally, the founding prosecutor of the ICC describes the court's mission as "to end impunity for mass atrocities and prevent future crimes."

On the other hand, critics of deterrent theory agree that the theory plays a significant role in deterring and preventing but rather disagree with the notion that international tribunals including the International Criminal Court have the ability to prevent future crimes using just mere threats of punishment. Equally, some critics cite the "rational actor" arguing that some individuals who perpetuate criminal acts of mass atrocities are not normal actors and therefore cannot be deterred from committing crime.

Besides, critics of deterrence theory find another gap with linking rationality and commission of crimes against humanity atrocity. According to them, "social deviant behaviors including moral decadence may largely contribute to commission of crime more than fear can deter them (Padraig, 2012)." To the critics, commission of crimes against humanity is fueled by moral decay where individuals get involved in atrocities of killing, raping, arson, or other criminal behavior and nothing happens to them. And this is why some individuals find it morally

justifiable or necessary to commit crime because the society condones it. However, social deterrence is limited or has relevance because in some cases individuals may exaggerate the benefits of engaging in crime.

Moreover, some critiques point out the cost-benefit calculus of deterrence theories. According to them, international justice systems including the ICC do little or have no deterrent effect because they are not capable of sending a signal that those who commit mass atrocities or other human rights abuses will likely be punished (Julian, 2006). According to Wippman, many people assume that individuals who engage in crimes of mass atrocities do it on the basis of rational cost-benefit calculations but most likely they perceive that chances of facing charges are small (Diane, 2003). In cementing this argument, Wippman uses the case of International Tribunal for the former Yugoslavia. According to him, the Tribunal indicted ninety-one in a period of six years but only managed to sentence only six individuals. To Wippman data is just a tip of the iceberg in relative to the numbers of individuals who are actually responsible for committing crimes against humanity. Some scholars and human rights experts have blamed the scourge of rising cases of international humanitarian crimes on the absence of an international criminal police force with a clear mandate to arrest and prosecute. According to Drumbl, lack of an international police force makes deterrence of crime an uphill task because of prosecuting an individual are tiny owing that they walk free even after committing the crime.

1.10 Chapter Outline

The study is organized in five chapters. Chapter one introduces the study by discussing the background of the study, the statement of the problem, the research objectives and hypothesis, justification of the study, scope and delimitation of the study as well as theoretical framework. Chapter two reviews related literature to the study guided by the research objectives. Both theoretical and empirical literature is reviewed. The researcher consulted books, electronic journals and other available related literature. The researcher was able to establish the research gap and attempted fill it by the study.

Chapter three details the research design and methodology, sample and sampling procedures, the target population, the validity and reliability of the instruments, the research instruments, data collection and data analysis procedures and finally ethical consideration. Chapter four consists of presentations and analysis of the main findings of the research. The researcher interpreted and discussed the responses according to the research question. The descriptive data was analyzed using tables, frequencies and percentages. The researcher evaluated data collected through questionnaire and interviews, document analysis and observation in narrative forms in order to provide in-depth descriptions of responses from the study participants. In chapter five, the researcher presented a brief summary of the study, and then made conclusions and recommendations.

CHAPTER TWO: LITERATURE REVIEW

2.1. Introduction

This chapter critically reviews literature based on how to build peace in divide society and involvement of ICC in DR Congo. Besides, the chapter looks interventions put by ICC towards promoting peace in DR Congo.

2.2. ICC Interventions in DR Congo

DR Congo ratified the Rome Statute in April 2002. two years later, DR Congo invited the ICC's Prosecutor to open investigations over war crimes committed in DR Congo. Since then, the ICC got engaged in D R Congo with different actions. The following figure shows a summary of ICC main interventions in D.R. Congo since its founding.

Table 1: ICC Actions toward D.R. Congo

Date	ICC Actor	Congo's Actor	Action
July 2003	ICC Prosecutor	D.R. Congo	ICC Prosecutor issues testament of alleged crimes in DR Congo
13-Mar-04	---	Congo's president	Invites Court to investigate in Congo
May 2004	ICC Prosecutor	Thomas Lubanga	Issues arrest warrant for war crimes against Lubanga
February 10, 2006	UN Security Consul	Thomas Lubanga	Arrest of Thomas Lubanga f
July 2007	ICC Prosecutor	Germain Katanga	Issues arrest warrant for crimes against humanity against Katanga
Oct-07	ICC Prosecutor	Germain Katanga	Arrest of Germain Katanga

July 2007	ICC Prosecutor	Matthieu Ngudjolo	Issues arrest warrant for war crimes against Ngudjolo
Feb-2008	ICC Prosecutor	Matthieu Ngudjolo	Arrest of Matthieu Ngudjolo
Aug 22, 2006	ICC Prosecutor	Bosco Tanganda	Warrant of arrest issued against Tanganda
May 2013	ICC Prosecutor	Bosco Tanganda	Arrested and transferred by US embassy
July 13, 2012	ICC Prosecutor	Callixte Mbarushimana	warrant of arrest issued
	ICC Prosecutor	Sylvestre Mudakumura	The suspect is still at large.

Source: International Criminal Court database

2.2.1 Nature of Cases Prosecuted by ICC in DR Congo

Following widespread violence and war between the years 1996 and 2003, the DRC government referred the case to the ICC on 19 April 2004, requesting the Prosecutor to investigate whether crimes under the Court's jurisdiction had been committed in the territory of the DRC since the entry into force of the Rome Statute, on 1 July 2002 (Beyani, 2007). The investigations focused on the eastern part of DRC primarily in the North and South Kivu Provinces and the Ituri region. The Prosecutor established that there were reliable reports of mass murders, summary executions, rape, enforced disappearance, torture and illegal use of child soldiers which fell within the ambit of the ICC crimes against humanity and war crimes and decided to open investigations. The investigations initially focused on the armed ethnic conflicts between the Hema and Lendu communities in the Ituri district (ICC, 2003).

The ICC then commenced investigations war crimes and crimes against humanity and subsequently issued warrant of arrests respectively against “Thomas

Lubanga Dyilo Germain Katanga, Matthieu Ngudjolo Chui, Bosco Ntaganda, Callixte Mbarushimana and Sylvestre Mudacumura.” The investigations initially gave rise to the opening of cases against Thomas Lubanga Dyilo, Bosco Ntaganda, Mathieu Ngudjolo, and Germain Katanga. These four faced charges of alleged crimes of enlisting, conscripting and using child soldiers under the age of fifteen, murder, sexual slavery, pillaging among other war crimes and crimes against humanity committed in the Ituri region. Of particular note is the fact that these accused persons acted on behalf of one side of the conflict and retaliated against the other. Lubanga and Ntaganda acted for the Hema with Katanga and Ngudjolo retaliated for the Lendu community (Buisman, 2012).

a) The Thomas LUBANGA case (Brubacher, 2007)

Thomas Lubanga was convicted by the ICC on 14 March 2012 of conscripting and recruiting child soldiers under the age of 15 years and actively engaging them in hostilities. Lubanga was sentenced to 14 years of imprisonment for these war crimes, but was dissatisfied with the conviction and sentence and appealed to the Appeals Chamber, which confirmed the verdict and sentence in December 2014. Following this confirmation of the decision on conviction and sentence, the victims of the atrocities within the scope of the case are currently awaiting a decision on reparations. Lubanga is currently serving his imprisonment term in DRC having been transferred from the ICC on 19 December 2015. The ICC began its investigations that would give rise to the charges against Lubanga in 2004. Arrest warrants were unsealed in February 2006 and Lubanga was

subsequently arrested and surrendered to the ICC and made his initial appearance before the Court in March 2006 to face trial for war crimes of child recruiting, conscripting and using child soldiers in the eastern DRC region of Ituri.

The Pre Trial Chamber's confirmation of charges against him on 29 January 2007, paved way for the trial which commenced on 26 January 2009. Lubanga was the president and one of the founders of the UPC that was established in September 2000. Alongside the FPLC, the military arm of the UPC, Lubanga's armed group took over power in Ituri in September 2002 and waged war against the Lendu militias until August 2003. During this period, the UPC/FPLC engaged in massive and widespread recruitment of child soldiers who underwent harsh military trainings in addition to being severely punished. Thereafter, the child soldiers were actively engaged in the fighting as military bodyguards and as soldiers. There existed a special wing that was known as the "Kadogo Unit" comprising of children under 15 years of age.

The ICC Trial Chamber 1 found that there was demonstrable evidence that as the Commander-in-Chief and the political leader of the army, Lubanga was responsible for the overall coordination of the operations of the UPC/FPLC including planning and supporting the military operations. The Court established that Lubanga actively and closely supported the recruitment and enlistment of children including through his public speeches.

b) The Katanga Case

In July 2007, the ICC issued warrants of arrest under seal against Germain Katanga for war crimes and crimes against humanity he allegedly committed in the Ituri District in eastern DRC. Three months later, he was arrested and the arrest warrants were unsealed as he made his first appearance in court on 22 October 2007. On 26 September 2008, the ICC Pre Trial Chamber I confirmed the charges against Katanga. His case was enjoined with that of Ngudjolo at Pre-Trial stage. Katanga, of Lendu ethnicity, was initially charged as a principal perpetrator but was found guilty of being an accessory to the crimes of murder as a crime against humanity and a war crime and directing an attack against civilians, destruction of property and pillaging as constituting war crimes. As at 2002, Katanga was the military leader of the Force de Résistance Patriotique en Ituri (FRPI), a largely Ngiti combatant group, based in Ituri region. He served as the Brigadier Général in the Forces Armées de la République Démocratique du Congo (FARDC) pursuant to a presidential appointment in December 2004. He was arrested by the DRC government, while still holding this position in the Congolese government's army and handed over to the ICC. ICC's Trial Chamber II, by majority, on 7 March 2014, convicted Katanga of being an accessory to one count of murder as a crime against humanity and four counts of war crimes committed in Ituri on 24 February 2003.

The Court found that Katanga made a significant contribution planning the operation that led to the crimes committed by the Ngitimilita group against the largely Hema community in Bogoro area. Katanga was acquitted of the charges of

rape and sexual slavery due to insufficient evidence linking him to the crimes. Katanga was condemned to serve 12 years in prison less the close to seven years already spent in custody. Although, the Prosecutor and Katanga had filed appeals against the conviction and sentence, both appeals were withdrawn on 25 June 2014. The Court is set to make a decision on the compensation of the victims in the case.

c) The Ngudjolo Case

Mathieu Ngudjolo of Lendu ethnicity, worked as a trained nurse before taking to military combat as the head of the Lendu group known as the Front des Nationalistes et Intégrationnistes (the FNI). In 2006, there were media reports that Ngudjolo had entered into a peace agreement with the DRC government and had been offered amnesty and integration into the government army, FARDC (The Armed Forces of the Democratic Republic of the Congo). As part of the integration process, Ngudjolo underwent military training and was arrested in February 2008, while still an active member of the Congolese government's army. Ndudjolo was arrested and arraigned before the Court in February 2008 pursuant to the sealed arrest warrants issued in July 2007. He was charged with 7 counts of war crimes and 3 counts of crimes against humanity and in March 2008, his case was consolidated with that of Katanga. In 2012, his case was separated from that of Katanga and he was subsequently acquitted of the charges, a decision which the Prosecutor appealed against but which was upheld by the Appeal's Chamber of the ICC due to the unreliability of the evidence presented at trial.

2.2.2. ICC and Peace Development in DR Congo

The move by the Congolese government to refer the case of war crimes and crimes against humanity to ICC is an example of a strong recognition of the role of the ICC in restoring justice and restoring peace in a volatile situation. The demonstrated relationship between the ICC and the DRC government has exemplified complementarity in the true spirit of the Rome Statute, in what the Office of the prosecutor called “burden sharing” whereby ICC put more focus on those bearing the greatest responsibility for the most serious crimes whereas the government prosecute the mid and lower level perpetrators (Court Records, 2015). The move by the Congolese government to refer the case to ICC is an acknowledgment of the State’s unwillingness or inability to prosecute, demonstrate the concepts of positive complementary, particularly with respect to the arrest and surrender of Katanga, Lubanga and Ngudjolo to the ICC. Further the involvement of the ICC in DRC can be argued as having pressured for domestic accountability measures and prosecutions, whether intentionally or as a corollary.

The Court has had notable successes, particularly the arrest and trials of Lubanga, Katanga and Ngudjolo. Although it is not entirely possible to demonstrate that these proceedings have contributed to the reduction of crime in DRC, the cases’ notable impact was the fear of possible arrest expressed by other suspected war criminals. The conviction of Lubanga increased awareness that conscription and use of children soldiers constitutes a crime under international law and more specifically, crimes under the Rome Statute. For example, in Ituri, many children were chased away from the militia groups (Branch, 2004).

The cooperation by DR Congo conflict in the apprehension and surrender of Ntaganda has bolstered the positive role of the ICC in contributing to the peace and security in the country. Ntaganda was arrested pursuant to the ICC warrants of arrest when he willingly surrendered himself at the US embassy in Kigali, Rwanda, requesting to be transferred to the ICC to face trial, after years of being on the run (BBC Report, 2014). This level of cooperation illustrates recognition of the positive role of the ICC as being a force to reckon with, not only in the fight against impunity but in the sustenance of peace in the region. However, the refusal or inability of the DRC government to arrest and turn over Ntaganda, cast doubt as to the continued existence of the positive complementarity.

Some human rights defenders and Congolese victims claim that the arrest of Bosco Ntaganda contributed to some relative peace in the Ituri region. Ntaganda was a rebel leader who served as the key actor of military operations of the “Union of Congolese Patriots” (UPC) under Thomas Lubanga before the latter’s arrest and trial at the ICC. For most of the Congolese, Ntaganda’s surrender to the ICC and the commencement of proceedings against him was significant to the people who suffered and witnessed the grievous crimes that were committed by him or under his command. In addition to this, the proceedings against Ntaganda send a strong message to rebel groups and commanders that are still actively involved in the ongoing conflict in DRC that they too can be apprehended and held to account for their actions.

The prosecution Lubanga and Ntaganda show the role of ICC has played in promoting peace in DR Congo. Lubanga was charged with conscription of child soldiers while Ntaganda was charged with 13 counts of war crimes and five crimes against humanity allegedly committed in Ituri, DRC, in 2002-2003. Human rights activists raised concerns as to the narrow nature of charges in the Lubanga case which left out the majority of victims of the vast crimes that were committed in Ituri. As such, the expanded list of crimes facing Ntaganda represents the nature of violations that most of the ethnic communities suffered (Human Rights Watch, 2015). A number of Congolese citizens believe that the ICC has somewhat contributed to peace and security in some parts of the DRC. However, at the same time, the decision by the ICC not to pursue cases relating to crimes committed in other parts of DRC such as in North and South Kivu as well as Kinshasa, the political capital, point to some deficiencies in the system in terms of dealing with the perpetrators of crimes (Daniel, 2015). While Ituri was the largest affected area by the conflict between the two main ethnic communities- the Hema and the Lendu- there are other areas where atrocities within the jurisdiction of the ICC were committed but which remain unaddressed by the ICC and national courts. Lendu-based militias, despite their alleged involvement in perpetuating serious atrocities, as well as senior political figures in the DRC, Uganda or Rwanda who supported the armed groups, have never been prosecuted (Human Rights Watch, 2003).

The deterrent nature of the ICC cases proceedings has been felt at the national level and have contributed to increased domestic prosecutions. The courts

in DRC have made positive reference to the jurisprudence at the ICC and to the provisions of the Rome Statute, among other international criminal justice principles. The domestic jurisprudence demonstrates the direct implementation of the Rome Statute by a State Party to the ICC system, albeit not perfect. Local judicial officials in Ituri displayed an impressive degree of enthusiasm and courage for undertaking prosecution of international crimes (Ocampo, 2007).

2.3. Building Peace in a Divided Society

Peace building in a divided society may involve a range of approaches including “establishing rule of law, reforming or strengthening governmental institutions, promoting formal and informal processes of political participation, disarming the previously warring-parties, restoring order, the custody and possible destruction of weapons, repatriating refugees, monitoring elections, training support for security personnel and advisory, advancing efforts to protect human rights.” The former United Nations’ Secretary-General, Boutros-Ghali, offered these measures for preventing reoccurrence of hostilities and consolidating peace in his Peace Agenda of 1992. The work of Boutros-Ghali has been revised and replicated by researchers like Christine Cubitt in 2013. However, Christine prioritized support to civil society as the most peacebuilding measure contributing to prevent conflict in the aftermath of conflicts. She strongly believes that civilian counterbalance to government excess behavior is a key tenet of democracy which

is considered fundamental for the sustainability of peaceful society and is promoted in post-conflict reconstruction (Christine, 20013).

On a different note, Bar-Tal, D., Rosen, Y., and NetsZehngut propose education as the most important approach that helps consolidate peace in society ravaged by conflicts in their study (Bar & NetsZehngut, 2010). According to them, education system and, more specifically, peace education, offers opportunities of learning values, attitudes and practices of peaceful cohabitation, cooperation and solidarity between young people of different social groups, who can act as obstacles to memories of conflicts that reinforce stigma and prejudice in society. Peace education can facilitate a mutual understanding of the past of conflict and foster tolerance by making learners transformative actors in their society through cooperative and democratic teaching practices that can place learners at the center of learning process, assert Bar-Tal, D., Rosen, Y., and NetsZehngut.

Otwin Marenin's study is more comprehensive than that of John Paul Lederach, focusing on the reform of institutions. With preference in police reform, Otwin believes that to prevent conflict and guarantee peace in a society affected by the conflicts and complex violence, reforming domestic institutions such as police maters, since it plays significant role of securing persons and maintaining safety and public order (Otwin, 2005). John Paul argues that to help sustain and initiate a peacebuilding processes, economic resources are the most necessity, because resources expenditures consumed by efforts of ending conflicts far overpass those

assigned for building peace (John Paul, 2017). Finally, Kees examining peace and development processes in sub Saharan Africa, considers demobilization, disarming and reinsertion as natural continuum of any peace processes (Kees, 1996). This literature is strongly useful. However, if these measures helped promote peace in some conflicting cases, they also failed preventing conflicts in some others, particularly, where mass atrocities and systemic abuses make conditions of those societies very fragile like in D.R. Congo. For example, developing norms and democracy, reforming institutions and educating people, may need important human and financial resources, and above all take time. The question therefore is, the extent to which other mechanisms or actors would be able to contribute to peacebuilding processes, and thus to promote peace after civil wars. In other words, is the International Criminal Court an effective actor in peacebuilding processes?

2.4. ICC and Peacebuilding

There are available studies conducted on the role of ICC in promoting peace and world order. Gerhard (2014) in his book “*Principles of International Criminal Law*” details the etiology of the establishment of ICC as well as the crimes under the jurisdiction of the ICC also recognizes the role of ICC in maintaining peace, justice and rule of law by ending impunity. Ellis and Goldsone discuss the challenges facing the achievement of justice accountability at the ICC in the 21st century and identify lack of cooperation from State Parties as a hindrance to judicial enforcement of ICC decisions hindering the pursuit of justice (Gerhard, 2014).

Schabas provides an overall discussion on the ICC from its creation, jurisdiction, crimes, trial, investigation, rights of victims, and admissibility among other issues. He argues that ICC as a court of last resort only acts when domestic justice system is unwilling to try the perpetrators or is unable to do so.

Kersten (2015) questions the impact of the ICC interventions in ending wars and building peace. He argues that ICC's actions to intervene when there is still conflict has either a negative or positive effect on peace which then affects the realization of justice. He questions whether holding perpetrators of mass atrocities accountable helps or hinders the attainment of justice. He borrows and builds on theoretical and analytical insights from studies on conflict and peace. He provides a detailed discussion on the Court's impact on justice in conflict. His book mainly focuses on the role of ICC in ending conflict through its interventions and conflicting State Parties interests and its own institutional interest.

Mariniello provides a recent and more in-depth perspective of the role of the ICC. The book published in 2015, focuses on both procedural and substantive challenges the ICC is facing. In tandem with the objective of this study, this book offers guidance and enriches this study as it provides the ICC with ways in which it can solve the said obstacles to enhance its role in maintaining justice. The author explores the impact of ICC in countries where most serious crimes have been committed.

O'Conner (2005), reviews the impact of not prosecuting the Ottoman-Turkish government and Germany war crimes after the atrocities committed during

the WWI on the international community. He argues that the failure to pursue justice at the expense of political affiliations was the main reason why the WWII occurred. Ocampo (2008) in his article, appreciates the role ICC plays in ending impunity and ensuring that perpetrators of international crime face the law through punishment. He applauds ICC as a model institution that promotes and enhances international criminal justice. He identifies lack of adequate cooperation between the ICC and its State Parties and enforcement of judicial decisions as the greatest challenges ICC faces as a tool of achieving universal justice.

Murithi (2013) discusses the relationship between the ICC and African Union. The African Union as a region body has a large number of members as State Parties to the Rome Statute. However, since the ICC issued an arrest warrant against Sudan's president and trial of the *Kenyan* cases trying a sitting president, the Africa-ICC relationship became more precarious. Murithi reminds AU of its shared goal with ICC to end impunity and calls for cooperation between the two institutions. In this article, the author foresees an avenue where this relationship can be repaired by bridging their differences and working actively to address impunity and foster justice in Africa. The AU non-cooperation policy against the ICC will only deepen impunity and injustice. Murithi, also argues that ICC should understand that as a court of last resort, it can only have criminal jurisdiction where the State is unable to prosecute. The author argues that ICC should strengthen the institutional and judicial capacity of State parties to investigate and try responsables of genocide, aggression, war crimes, and crimes against humanity at national level.

Wanyeki (2012) analyses the impact of the ICC on the Kenyans justice perceptions. The author contextualizes the Kenyan cases providing a historical background that led to commission of international crimes in Kenya and what triggered the ICC investigations. Since ICC's establishment, the *Kenyan Cases*, with Kenya and other African countries threatening to withdraw from the ICC, have threatened the legality of ICC. The author argues that despite the fact that a special tribunal was recommended to ensure that those on the Justice Waki list go through criminal proceedings, this did not materialize as politics took center stage and domestic justice failed and the government of Kenya preferred the intervention of the ICC. Wanyeki, questions whether the ICC proceedings in Kenya influenced justice, complementarily and deterrence. Stromseth (2009) questions whether international criminal courts and tribunals influence public confidence and perception of justice in countries that survived the atrocities. The author argues that there is need to relook at this cross road and determine the domestic impact of international criminal courts on justice on the ground. International criminal justice must focus on the people who endure the atrocities by ensuring that the perpetrators are brought to justice through criminal proceedings. He mainly focuses on the post-conflict justice and is of the view that this can be done through strengthening justice and rule of law on the ground.

2.4. 1. Jurisdiction of the International Criminal Court

Jurisdiction refers to the “power of a state to affect persons, property and circumstances within its territory.” The principle of universality which gives the

ICC the jurisdiction irrespective of nationality, locality or offence of a state sets the extent and the limits while putting in mind the rules of international criminal law. The ICCs jurisdiction is limited to crimes of genocide, crimes against humanity, war crimes, and the crime of aggression (Rome Statute, Art 5). The ICC was intended to be a credible, independent judicial institution with the ability to fairly and impartially adjudicate serious international crimes, where national judicial systems have failed or are unwilling to prosecute. “The justification for international courts is situated in the assumption that they will deter future atrocities and that by administering judgment and punishment the probability of future violations will decrease.” This logic is entrenched in the agreement of ICC. Of the ten situations under investigations by the ICC, nine are in Africa. These are in the Democratic Republic of Congo (DRC), Central Africa Republic (CAR), Mali, Uganda, Kenya, Libya, Sudan and Côte d'Ivoire (ICC, 2017). The ICC has come a long way since its inception in 2003, with a total of 23 cases and ten situations under investigations.

The ICC’s jurisdiction in a situation is triggered in three ways- referral by a state party, referral by the United Nations Security Council or by the exercise of the Prosecutors *proprio motu* powers. Three situations have been referred to the Prosecutor by States Parties (Uganda, the Democratic Republic of the Congo, and the Central African Republic), two situations (Darfur/Sudan and Libya) have been referred by the UN Security Council (UNSC), the Libya situation, at the beginning of March 2011, through a unanimous Security Council decision.

CHAPTER THREE: RESEARCH DESIGN AND METHODOLOGY

3.1 Introduction

This chapter describes the research design and methodology that was employed in conducting this research, sample and sampling procedures, target population, validity and reliability of the instruments, research instruments, data collection procedures and data analysis techniques. In addition, the chapter also discusses the ethical issues that were considered before during and after the research.

3.2 Research Design

The research design is “the researcher’s plan of enquiry that puts paradigms of interpretation into motion on how to proceed in gaining an understanding of a phenomenon in its natural setting (Biklen, 2007).” This study adopted both qualitative and quantitative approaches specifically concurrent Triangulation approach. According to Boeije (2010), this design enables the combination of qualitative and quantitative approaches and provides a more complete understanding of a research problem than any standalone approach. The design was deemed appropriate in an attempt to confirm or corroborate findings within a single study. Cross-Sectional Survey was used collect quantitative data. It enabled the researcher to construct both open-ended and closed questionnaires that were administered to the respondents. Besides, phenomenological design was used to

collect qualitative data. Ogula (2005) defines phenomenology design as “one that uses human instrument as an observer to provide an in-depth investigation of individuals, groups or sometimes institutions in their natural setting.” Through phenomenological design, the researcher developed semi-structured questionnaires for key informants. The design enabled the researcher to make observations and analyze the available documents on the role of ICC in peace building processes in DR Congo.

3.3 Target Population

The target population includes persons, groups or cases which a researcher wants to use in order generalize the results of the study (Mugenda, 2012). For the purpose of this study, the target population included; Human Rights Activists, Lawyers, Civil Society Representatives, Students, Local Opinion Leaders, Personnel of UN, Representatives of ICC, and Journalists.

3.4. Sample and Sampling Procedures

Multistage sampling method was used as the sampling procedure in this study. This method was preferred because it is considered as one where all possible samples have same probability of being selected (Kombo, 2013). It is also a method regarded as more practical and free of bias. This approach was adopted due to the lack of a list of the members of the study population. This technique was used by primarily dividing the study area into three areas namely Goma, Butembo and Beni

while sub-locations and villages were considered as sampling units in order to ensure proper presentation of population during data collection.

Stratified random sampling was used to sample; human rights activists, students, lawyers, representatives of civil society and local opinion leaders in North Kivu province. The respondents were grouped into four strata and a total of 150 respondents were selected from each stratum to represent the sample. On the other hand, purposive sampling was used to sample ICC officials, UN officials and journalists who participated in the study. Below is a summary of the study sample

Table 2: Sampling Matrix

POPULATION	SAMPLING TECHNIQUE	SAMPLE SIZE	PURPOSE
Students and Lawyers	Stratified random sampling	50	Quantitative Data
Local Opinion Leaders	Stratified random sampling	30	Quantitative Data
Human Rights Activists	Stratified random sampling	50	Quantitative Data
Civil Society Representatives	Stratified random sampling	20	Quantitative Data
Personnel of UN	Purposive sampling	3	Qualitative data
Representative of ICC	Purposive sampling	2	Qualitative data
Journalists	Purposive sampling	3	Qualitative
Total		158	

Source: Author, 2018

3.5 Description of Data Collection Instruments

The study used both primary and secondary sources of data collection. Primary data was collected using structured questionnaires and semi structured interviews instrument. Closed questionnaires targeted Students, Lawyers, Human

Rights Activists and Representatives of NGOs and local Opinion Leaders while semi structured interviews were used to collect data from ICC Representative, UN Personnel and domestic Journalists. Secondary data was collected using books, journals, magazines, articles, published theses and published reports.

3.5.1 Questionnaire for Students, Human Rights Activists, Local Opinion Leaders, Civil Society Representatives and Lawyers

The researcher used open ended and closed questions in its questionnaire. The quantitative research paradigm was used to enable the researcher to collect data and meet the objectives of the study. The questionnaire was considered because it gives the respondents freedom to express their views or opinion and also make suggestions. Similarly, questionnaires were significant because they ensured anonymity of the respondent; it saved time and reduced chances of respondent subjectivity because questionnaires were in paper format. The questionnaire was constructed based on research questions. The questionnaires were divided in five sections. Section one focused on demographic information of the respondents, section two examined the attitudes of Congolese people towards ICC, section three focused on the role of ICC in strengthening domestic institutions to guarantee peace in DR Congo, section four evaluated the overall role of ICC in peace building while section five examined strategies of building peace in a divided society.

3.5.2 Semi-Structured Interview Guide for UN Officers, ICC Officers, and Journalists.

The semi-structured interview guide is an oral questionnaire which gives immediate feedback. Semi-structured interview guide was used to collect

qualitative data from parents. This research instrument is best suited in the study because it is flexible and adaptable. The use of semi-structured interview guide enabled the researcher to gather in-depth information through probing regarding the role of ICC in peace building in DR Congo.

3.6 Validity and Reliability of Research Instruments

3.6.1 Validity

Validity refers to the degree to which accuracy of data obtained in the study yields true results representing the variables of the study (Kombo, 2006). According to their argument, validity is largely determined by the presence or absence of systematic error in data. Hence, the measure of systematic error in the instrument should be minimized as much as possible.

In this study, the researcher took precautions to ensure the research instruments designed to collect data measured what they are supposed to in order to maximize the validity of the information that was gathered. Secondly, the researcher carried out pilot testing to validate the instruments. Around 10 research instruments were administered to lecturers and some master's students for independent scrutiny of time taken and relevance of content obtained. Their feedback was taken into consideration. Besides, the researcher made sure that the supervisor and other language experts gave their input concerning the research questions and interview guides. These interventions ensured validity is assured.

3.6.2 Reliability of Research Instruments

According to Creswell and Clark (2011), reliability can be described as the degree of whereby the results of construct measured demonstrate a high percentage of similar outcomes and without bias. Reliability is measured by the degree to which a research instrument yields consistent results or data after repeated trials. In this research, Cronbach Alpha technique which requires only a single test to determine the internal consistency of the instruments will be used. The Cronbach Alpha technique is generally the most appropriate type of reliability test for survey research especially the use of questionnaires in which there is a range of possible answers for each item.

3.7 Data Analysis Procedures

Data analysis involves “a process of bringing order, structure and meaning to the mass of information collected. It is the breaking down large components of research data or information to simpler easily synthesized and understood parts (Mugenda, 2009).” For qualitative data obtained from semi-structured interviews, the researcher organized, categorized and coded the data while quantitative raw data which was obtained through questionnaires was coded and analyzed using descriptive statistics involving frequencies and percentages. The statistical package for social sciences (SPSS) version 20 was used to simplify the task.

CHAPTER FOUR: RESEARCH FINDINGS AND DISCUSSIONS

4.1 Introduction

This chapter presents the views and opinions of respondents in a manner that is understandable and interpretive. The chapter details how data was collated and methodically processed in line with the thematic areas guided by the research questions and study objectives targeting major actors in peace building process in DR Congo. Primary data was collected using questionnaires and semi-structured interviews involving; human rights activists, lawyers, students, local opinion leaders, civil society representatives and journalists. The findings of the study were discussed and compared with the selected theories as well as scholarly position highlighted in the literature review of chapter two.

4.2 Response Rate

A total of 150 respondents were sampled and administered with questionnaires but only, 108 filled and returned the questionnaires thereby giving the study a response rate of 60.0%. According to Mugenda and Mugenda (2008), a response rate of 50% is adequate for analysis and reporting; a response rate of 60% is good while a response rate of over 70% is excellent. Hence in our case the response rate is excellent. This is as shown in Table 4.2

Table 4. 1: Response Rate

Response	Frequency	Percentage
Returned	108	72.0%
Unreturned	42	28.0%
Total	150	100.0%

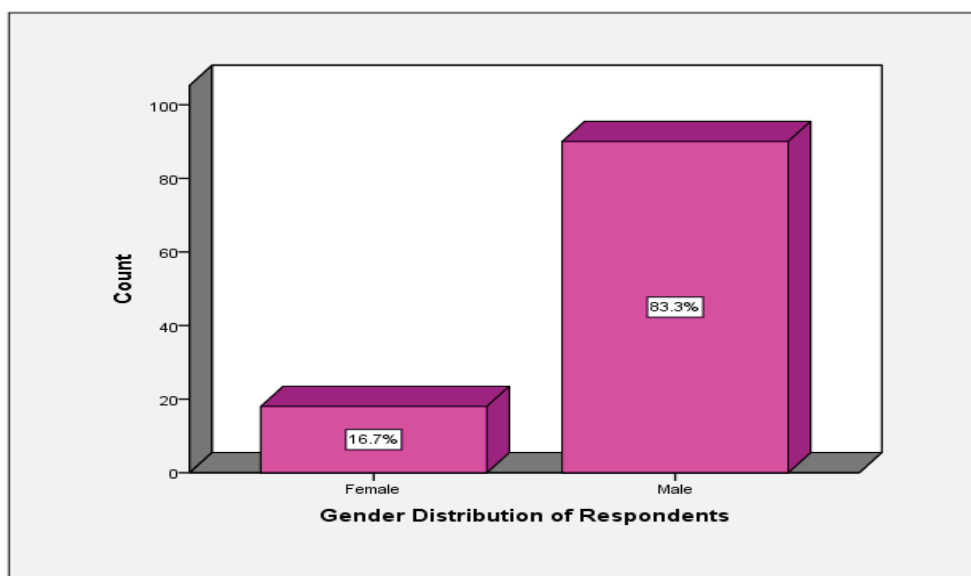
4.3 Demographic Characteristics of Respondents

This section presents the demographic data and characteristics of respondents including gender, marital status, age, education level, religious affiliation, occupation and working experience. Evaluating the personal characteristics of the study was significant in the study because it sheds light on how personal characteristics of respondents influence the work of ICC and peace building process in DR Congo.

4.3.1 Gender of Respondents

Gender as a key variable of the study was categorized on the basis of male and female respondents surveyed. The data gathered showed that majority (83.3%) of the respondent were male while 16.7% of the respondents were female. Following figure shows the gender distribution of respondents.

Figure 4. 1 Gender distribution of respondents



Source: Author calculation

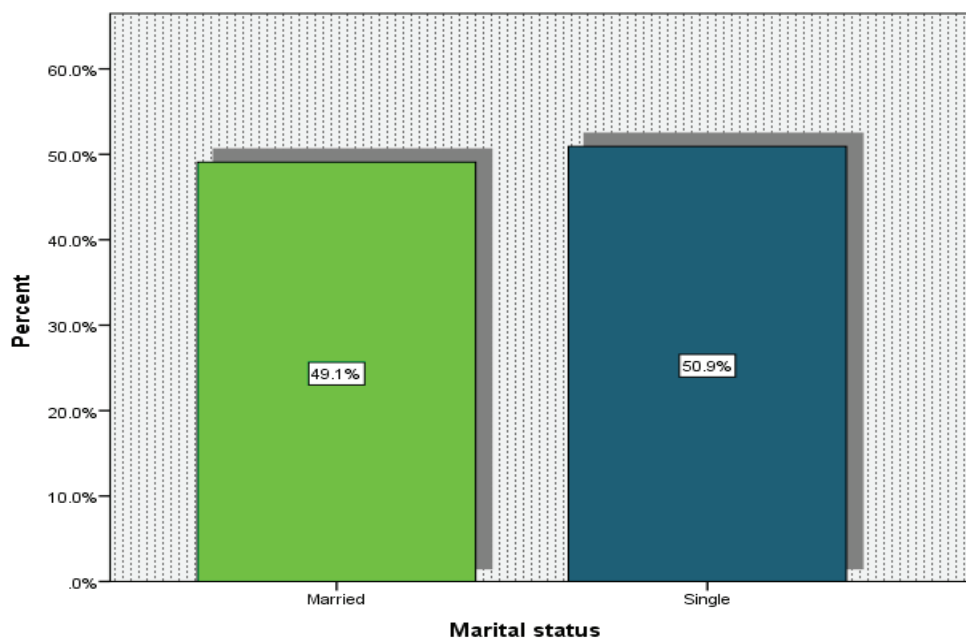
In view of the findings presented in figure 4.3.1 the gender representation showed that overwhelming majority of respondents were male while slightly less than a quarter of female participated in the study. In DR Congo and by extension, many countries around the world, gender mainstreaming remains a challenge due to historical inequalities that put more value on the boy child at the expense of the girl child. However, several initiatives including affirmative action, one third gender rule and girl child empowerment programs have been adopted around the world to promote empowerment of girls.

4.3.2 Marital Status of Respondents

Marital status of respondents was significant in the study because war and conflict often disintegrates families due to displacement and deaths. Again, family

is considered the smallest unit of socialization thereby forming an important avenue for peace building and coexistence. The findings are shown in figure 4.3.2

Figure 4. 2 Marital Status of Respondents



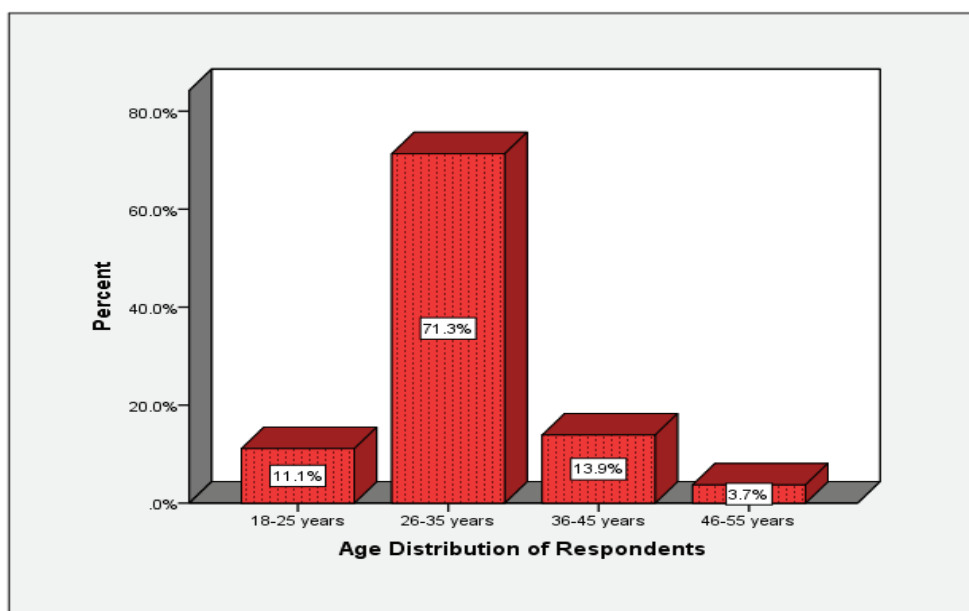
Source: Author's calculation

According to the findings, (49.1%) of the respondents were married while (50.9%) of the respondents were single. This implies that the number respondents who were married and those who were single were almost equal. In DR Congo, marital status of a person is influenced by socio-economic factors including age, occupation, education or family background.

4.3.3 Age Distribution of Respondents

Age was an important factor to consider when looking at the role of ICC in peace building process owing to the fact that believed that specific peace building approaches suits specific ages of people. The findings are shown in figure 4.3.3

Figure 4. 3 Age distribution of respondents



Source: Author's calculation

According to the findings, majority (71.3%) of the respondents were aged between 26-35 years, followed by respondents who were aged between 36-45 years while respondents who were aged between 18-25 years and 45-55 years represented 11.1% and 3.7% of the respondents respectively. This means that over 80% of the respondents were of ages 18-35 years thereby implying that they were youth. Around the world, youthfulness is often associated with innovation, robustness and productivity.

4.3.4 Highest Education Level of Respondents

The study examined the highest education level of respondents who took part in the study with a view of establishing how education level influenced respondent's views and opinions in relation to the role played by ICC in promoting peace in DR Congo. A summary of the data collected is summarized in table 4.3.4.

Table 4. 2 Education level of respondents

Level of education	Frequency	Percentage
a) College/Tertiary	4	3.7%
b) Doctorate	2	1.9%
c) University	102	94.4%
Total	108	100.0%

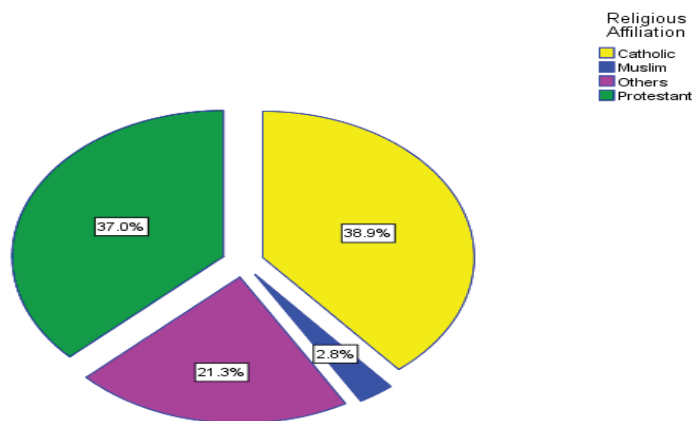
Source: Author's calculations

As shown in table 4.3.4, majority (94.4%) of the respondents had attained university education, 3.7% of the respondents had attained college/tertiary education while 1.9% of the respondents had attained post-graduate education (doctorate degree). This finding means that majority of the surveyed respondents had higher education and therefore they were well placed to share their opinions in regard to the role of ICC in promoting peace in DR Congo.

4.3.5 Religious Affiliation

Religious affiliation of respondents was evaluated because religion plays a significant role in any society. In other words, religious leaders play a pivotal role in championing peace, justice and reconciliation. The findings are shown in figure 4.3.5

Figure 4.4 Religious affiliation of respondents



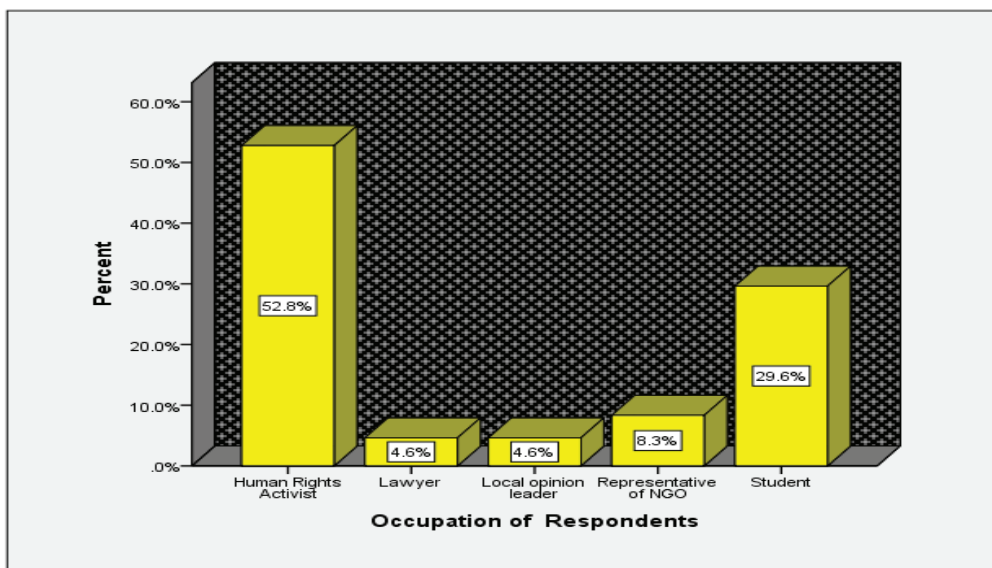
Source: Author's calculation

According to the findings, 38.9% of the respondents were Catholics, 37.0% were Protestants, and 2.8% were Muslims. In addition, 21.3% of the respondents were affiliated to other religions including; African tradition, Hindu and Non-believers. The finding means that more than 70% of the respondents were Christians.

4.3.6 Categorization of Respondents

In an effort to develop a deeper understanding of the concept of peace building, the study ensured that the views and opinions of participants from across different occupations were covered adequately. Such participants were categorized into human rights activists, opinion leaders, lawyers, journalists, students and representatives of non-governmental organization. Figure 4.3.6 provides a detail breakdown of the categories of the respondents who participated in the study in regard to the work they did.

Figure 4. 5 Categorization of Respondents



Source: author's calculation

According to the findings, 52.8% of the respondents were human rights' activist, 29.6% were students, and 8.3% were representatives of NGOs while 4.6% each of the respondents were lawyers and local opinion leaders. What this data implies is that the respondents were drawn from different sectors and therefore they were deemed suitable to share their experiences and opinions regarding the role of ICC in promoting peace in DR Congo.

4.3.7. Working Experience

The respondent's working experience was important for the study in shedding light on the successes and challenges hindering attainment of peace in DR Congo despite the presence of ICC and peace keeping mission in the country. The findings are summarized in table 4.3.7

Table 4. 3.7 Working experience

Level of Working experience	Frequency	Percentage
a) 1-5 years	40	37.0%
b) 6-10 years	44	40.7%
c) 11-15 years	6	5.6%
d) 16-20 years	3	2.8%
e) Over 20 years	1	0.9%
f) None	14	13.0%
Total	108	100.0

Source: Author's calculation

As shown in table 4.3.7, majority (40.7%) of the respondents had a working experience of between 6-10 years, followed by 37.0% of the respondents who had a working experience of between 1-5 years, 5.6% had a working experience of between 11-15 years while those who had a working experience of between 16-20 years and over 20 years represented 2.8% and 0.9% of the respondents respectively. This finding can be interpreted to mean that all the surveyed respondents have a relatively good working experience and therefore they were deemed resourceful in sharing their views and opinions regarding the role of ICC in promoting peace in DR Congo.

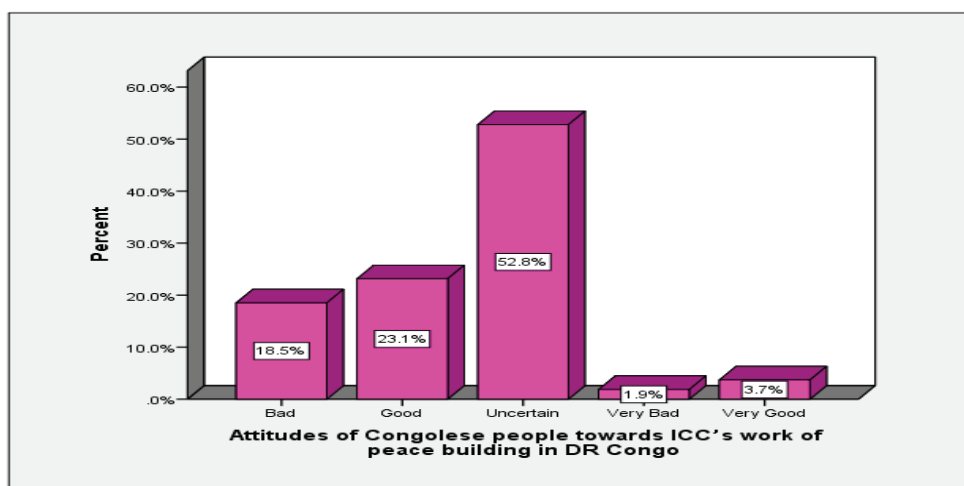
4.4 Descriptive Statistics

4.4.1 Attitudes of Congolese citizens towards ICC

The study took interest in seeking opinions of respondents on the attitudes of Congolese citizens towards ICC's role of peace building. This was important for the study because citizen's level of acceptance and tolerance of ICC spearheaded

initiatives promotes ownership and involvement. Equally, peace building is a function of citizen's attitudes towards what constitutes progress. The effort of peace building therefore calls for a behavior change whereby attitudes form a central part. The findings are shown in figure 4.4.1

Figure 4. 6 Attitudes of Congolese citizens towards ICC



source: Author's calculation

According to the findings, majority (52.8%) were uncertain about Congolese citizen's attitudes towards ICC while the smallest (1.9%) of the respondents considered the Congolese citizen's attitudes towards ICC as very bad. Equally, 23.1% of the respondents perceived Congolese's attitudes towards ICC as good, 18.5% perceived it as bad while 3.7% of the respondents perceived the attitudes of Congolese citizens towards ICC as very good. The findings can be interpreted to mean that only a quarter of respondents perceived the attitudes of Congolese citizens as good. The views were supported by a former ICC representative in DR Congo who said the following;

“DR Congolese citizens have a negative attitude towards the actions of the ICC. An attitude developed due to Congolese high expectation from court, and by the fact that the Court arrested Jean Pierre Bemba, a Congolese personality who was considered and seen as the alternative to the already hated power of President Kabila. The fact that the Court arrested the person who for a wide opinion was going to overturn President Kabila, for the Congolese people, the Court is considered and seen as an accomplice of the hated President Kabila. Additionally, the negative attitude of Congolese people towards the ICC's action in Congo stems from the fact that for the moment, only African leaders and citizens are arrested and judged to the International Criminal Court.”

(Source: Former ICC representative in DR Congo)

Table 4. 4 Attitudes of Congolese towards ICC’s work of peace building in DR Congo

Statements		Strongly Agree	Agree	Uncertain	Disagree	Strongly Disagree	Mean	Std. Deviation
a)	Congolese citizens support interventions of ICC in DR Congo	3	42	34	25	4	3.14	.932
b)	Congolese citizens have faith in ICC’s ability to arrest and prosecute perpetrators of crimes against humanity	9	31	35	24	9	3.06	1.088
c)	The citizens perceive ICC as the best hope of promoting justice and peace in DR Congo	9	21	33	33	12	2.83	1.123
d)	Citizens support the ICC by acting as key witnesses during trial of crime suspects	13	38	30	22	5	3.30	1.070
e)	The citizens perceive ICC as a neutral party in addressing cases of human rights violation	7	19	37	33	12	2.78	1.071
f)	The citizens don’t like the ICC because it has failed to prosecute offenders of heinous crimes	26	35	28	16	3	3.60	1.093
g)	The citizens believe that ICC lacks capacity to go after the major perpetrators of crimes against humanity	13	26	31	30	8	3.16	1.239

h)	The citizens believe that ICC's presence in DR Congo has interfered with the sovereignty of the country	6	17	41	29	15	2.72	1.066
i)	Citizen believe that ICC is guided by vested political interest and not to promote fairness and justice	37	45	20	5	2	4.00	.937
j)	The citizens believe that ICC prosecutor do shoddy investigations thereby leading to poor convictions	12	27	49	15	5	3.24	.985
k)	Majority of citizens feel that DR Congo should pull out of the ICC due to the court's ineffectiveness	15	23	32	20	18	2.97	1.279
l)	Majority of the Congolese citizens think ICC has lost credibility because it targets African countries	39	33	21	9	6	3.83	1.172
Valid N (list wise)		108						

Source: Author's calculation

According to the findings, majority of the respondents agreed with the statement indicating that ICC was guided by vested political interest and not necessarily aimed at promoting fairness and justice (mean, 4.00) and that ICC has lost credibility because it targets African countries (mean 3.83). Equally, majority of the respondents were of the opinion that citizens didn't like the ICC because it has failed to prosecute offenders of heinous crimes (mean 3.60). The findings are supported with views of journalist who indicated the following:

“Given that ICC aims to promote not only justice but also peace, its involvement in Congo and the establishment of the Trust Fund for Victims have raised great hopes and expectations among Congolese people, non-government organizations and especially victims of crimes. But there is a gap between pretense and reality. This gap explains Congolese's attitude towards the work accomplished by the ICC. Congolese people claim that even though ICC has arrested some criminals, that is useless since it did not make Congo a peaceful society. Additionally, Congolese people think that the ICC avoided investigating people in power or it has played

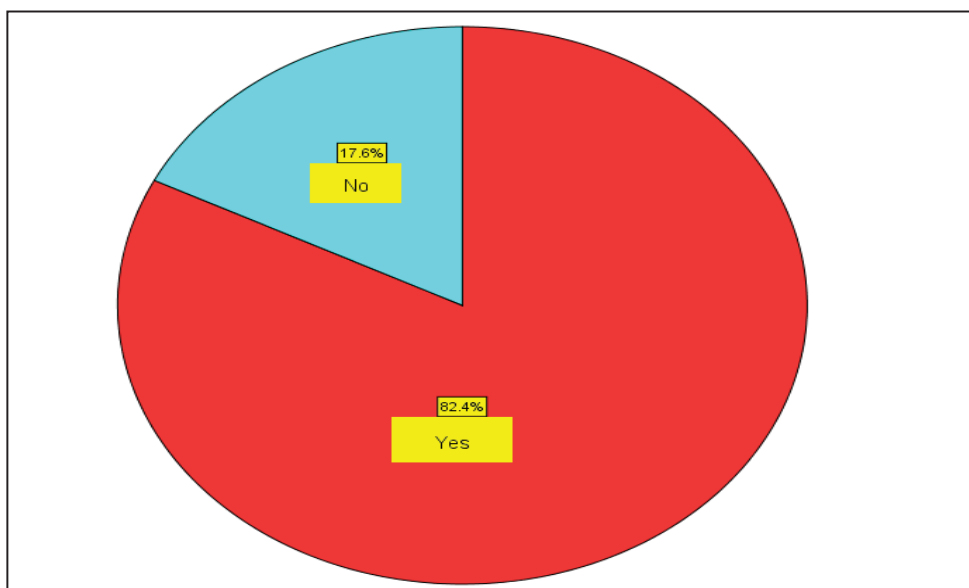
a political role of taking sides in conflict. But even though Congolese people would not like to see DR Congo quits the ICC's membership.”

Source: (Journalist in DR Congo)

4.4.3 Role of ICC in Strengthening Domestic Institutions to Guarantee Peace in DR Congo

The study sought to evaluate whether ICC play a critical role in strengthening domestic institutions towards establishing long lasting peace in DR Congo. This question was important for the study because sustainable peace and development requires functional and independent institutions. The findings are summarized in Figure 4.4.3 below.

Figure 4. 7 Whether ICC plays a role in strengthening domestic institutions to guarantee peace in DR Congo



Source: Author's calculation.

As shown in figure 4.4.3, majority (82.4%) of the respondents indicated that interventions by the ICC were significant in strengthening institutions while 17.6% of the respondents held a contrary opinion. This finding underscore the pivotal role played by ICC not only in peace building but most importantly in strengthening the capacity of institutions to sustain peace, justice and reconciliation. These findings were supported with views of a former ICC representative in DR Congo who said the following during a semi-structured interview:

“The ICC has modified the Congolese legal order. Several reforms have been introduced to adapt Congolese law to the Statute of the International Criminal Court. Among them, the Child Protection Act, passed and promulgated in 2009; The Sexual Violence Act, passed and promulgated in 2006; The amendment of the military penal code to adapt it to the agreement of the International Criminal Court. The creation of Juvenile Courts in all regions of the Congo; Congolese Courts and Tribunals have made several references to the provisions of the International Criminal Court in their decisions regarding war crimes. The strengthen of capacities through seminars with and trainings of students of different universities, lawyers, human rights activists and members of civil society on the law of the International Criminal Court.”

Source: (Former ICC representative in DR Congo)

Table 4. 5 Role of ICC in Strengthening Domestic Institutions to Guarantee Peace in DR. Congo

Statements		Strongly Agree	Agree	Uncertain	Disagree	Strongly Disagree	Mean	Std. Deviation
a)	The ICC has enhanced independency of domestic institutions in DR. Congo	4	7	24	20	53	1.94	1.061
b)	The ICC has promoted the rule of law in DR Congo	5	9	20	29	45	2.07	1.166
c)	The ICC has enhanced the development of civil society in DR Congo	6	13	25	34	30	2.36	1.172

d)	The ICC has promoted the independence of the judiciary in DR Congo	2	9	13	21	63	1.76	1.075
e)	The ICC has promoted freedom of the media	5	7	17	25	54	1.93	1.158
f)	The ICC has enhanced strengthening of family institution	4	9	15	17	63	1.88	1.273
g)	The ICC has not helped the victims of post-election violence	30	27	16	11	24	3.06	1.413
h)	The ICC has promoted education and training among the citizenry	28	27	24	17	12	3.30	1.383
i)	The ICC has failed in protecting the identity of key witnesses during trial	14	21	30	21	22	2.85	1.310
j)	The ICC has failed in enhancing justice, peace and reconciliation in DR Congo	29	29	22	14	14	3.42	1.354
k)	The ICC has not been effective in involving local residences during gathering of evidence and prosecution of major perpetrators of crimes	9	27	32	30	10	3.14	1.106
l)	The ICC's office in DR Congo is not accessible to residents	22	29	29	14	14	3.29	1.290
Valid N (list wise)		108						

Source: Author's calculation

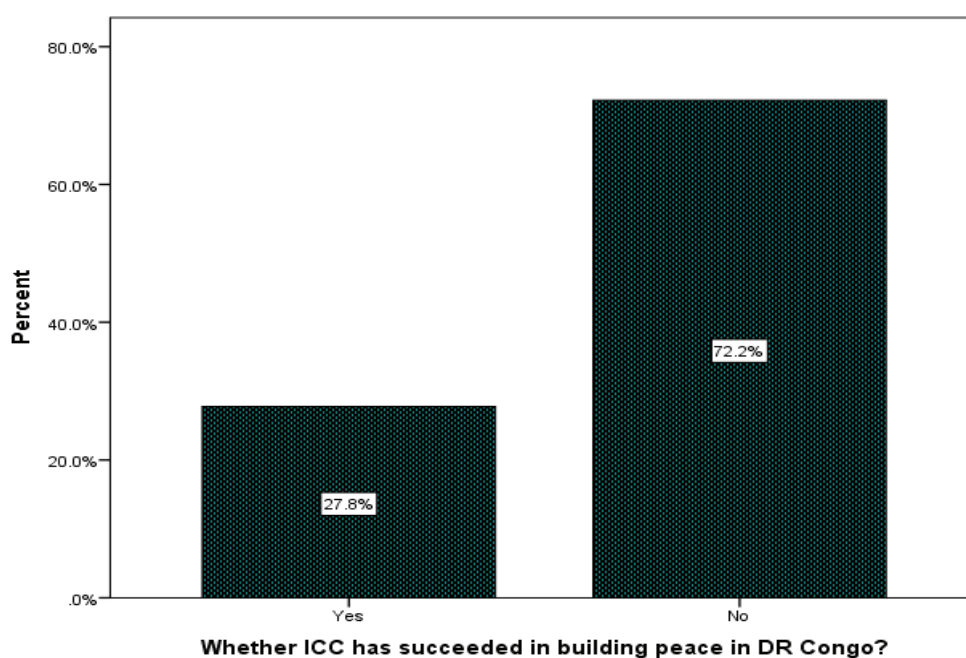
In spite of agreeing that ICC played a critical role in strengthening domestic institution, some respondents disagreed with the statement indicating that ICC had enhanced independency of domestic institutions in DR. Congo (mean 1.94). Equally, respondents disagreed that ICC had promoted the rule of law in DR Congo (mean 2.07), development of civil society (mean 2.36), independence of the judiciary (mean 1.76), freedom of media (mean 1.93) nor enhanced strengthening of family institution. However, the findings were inconsistent with a semi-structured interview conducted with a journalist based in DR Congo who said;

“The ICC has contributed to the strengthening of judiciary in Congo. Since the ratification of the Rome Statute of the ICC by DR Congo, many legislative reforms have been initiated, some expressly referring to the ICC Statute, others implicitly. These reforms concerned in particular the Military Penal Code and the Military Judicial Code considered as the first Congolese laws of adaptation to the Statute of the ICC. Efforts were also made to align Congolese definitions of international crimes with those contained in the ICC Statute. Basically, ICC helps significantly strengthen Congolese Justice System. Today, domestic Courts can investigate over war crimes, crimes against Humanity, and genocide, but before the ICC it could not.” **Source: (Journalist in DR Congo)**

4.4.4 Role of ICC in Peace Building in DR Congo

Evaluating the role played by the ICC in peace building in DR Congo was the ultimate objective of the study. In order to achieve this goal, the respondents were asked to indicate whether ICC had succeeded in building peace in DR Congo and the findings are summarized in figure 4.4.4 below

Figure 4. 8 Whether ICC has succeeded in building peace in DR Congo



Source: Author's calculation

According to the findings, majority (72.2%) of the respondents indicated that ICC had not succeeded in building peace in DR Congo while only 27.8% were of the opinion that ICC had succeeded in bringing peace in DR Congo.

Table 4. 6 Role of ICC in Peace Building in DR Congo

Statements		Strongly Agree	Agree	Uncertain	Disagree	Strongly Disagree	Mean	Std. Deviation
a)	The prosecutions of key suspects by the ICC has deterred commission of crimes in DR Congo	9	14	36	15	34	2.53	1.286
b)	The ICC's humanitarian support has helped in settlement of IDPs and refugees	7	9	27	25	40	2.24	1.222
c)	The ICC interventions has led to ceasefire and decrease in the number of violent conflicts	5	13	24	24	42	2.21	1.216
d)	Interventions by the ICC has promoted creation of alternative dispute resolution mechanisms	9	12	28	24	35	2.41	1.275
e)	The efforts by the ICC has promoted the coexistence among the residents of Congo	3	12	22	31	40	2.14	1.123
f)	Initiatives by the ICC has promoted political inclusivity	2	13	25	24	44	2.13	1.153
g)	Initiatives by the ICC has resulted in peaceful elections	8	6	24	15	55	2.08	1.347
h)	The ICC has succeed in promoting peaceful transition of power in DR Congo	8	7	15	25	53	2.00	1.253
i)	The ICC has failed in addressing historical injustices that hinder peace in DR Congo	43	28	13	11	13	3.62	1.338
j)	The ICC has not promoted justice for victims of violent conflict	33	30	18	12	15	3.54	1.377
k)	Worst crimes against humanity are committed despite the presence of ICC in DR Congo	40	29	18	13	8	3.75	1.261
l)	The ICC has not succeeded in preventing crimes against humanity in DR Congo	34	22	30	14	8	3.56	1.263
m)	There is lack of effective collaboration between ICC and government in trying criminals	55	24	12	10	7	4.02	1.260
Valid N (list wise)		108						

Source: *Author calculations*

According to the majority of the respondents, there was lack of effective collaboration between ICC and government in bringing criminals to justice (mean 4.02) and that worst crimes against humanity were committed despite the presence of ICC in DR Congo (mean 3.75). Similarly, the study established that ICC had failed in addressing historical injustices that hinder peace in DR Congo (mean 3.62) as well as failed to prevent crimes against humanity (mean 3.56) in addition to failing to promote justice for victims of violent conflict (mean 3.54). The findings are inconsistent with assertions by Branch (2004a) who indicates that the ICC has had notable successes, particularly the arrest and trials of Lubanga, Katanga and

Ngudjolo. The conviction of Lubanga increased awareness that conscription and use of children soldiers constitutes a crime under international law and more specifically, crimes under the Rome Statute. For example, in Ituri, many children were chased away from the militia groups. The findings were supported with results from semi structured interview that revealed the following:

“Given that the Court has arrested Thomas Lubanga, Mathieu Ngudjolo and other criminals is a very important contribution of the ICC in the establishment of peace in the Congo. This almost imposed a certain peace in the country for a certain moment, because everyone thought it is useless to continue to make war because the leaders are arrested. The fact that domestic courts of Congo have incorporated the provisions of the International Criminal Court in their work to try criminals is another contribution of the Court in the processes of peace development in Congo. There have been several judgments in Congo in which the Congolese courts have made reference to the ICC text. The ICC has contributed much to the moral peace of victims, who, through the work of the ICC, have found the moral and psychological peace of knowing that their criminals have been arrested and sentenced. Given that the Court created the victims' fund in Congo, and this goes to the victims and gives them some moral, psychological and even material supports, the Court contributes to the establishment of peace in Congo.

Source: (Former ICC representative in DR Congo)

4.4.5 Strategies of Building Peace in a Divided Society

In pursuit of addressing the research problem, the respondents were asked to suggest strategies of promoting peace in a divided society. The findings are summarized in table 4.7

Table 4. 7 Strategies of Building Peace in a Divided Society

Ways of promoting peace in a divided society	Frequency	Percentage
a) Promoting Good governance and leadership	26	24.1%
b) Enhancing independency of institutions	22	20.4%
c) Promoting constitutionalism and rule of law	15	13.9%
d) Advocating for Justice, Peace and Reconciliation	11	10.2%
e) Prosecution of perpetrators of crime	8	7.4%
f) Promoting Dialogue and Unity	7	6.5%
g) Equal Distribution of Resources	5	4.6%
h) Public participation	5	4.6%
i) Promoting Patriotism	4	3.7%
j) Enhancing Civic Education	3	2.8%
k) Regime change	1	0.9%
l) Instituting democratic reforms	1	0.9%
Total	108	100.0%

Source: Author's calculation

According to the findings, the respondents suggested that in order to realize peace in DR Congo, the following measures should be put into consideration: Good governance and strong leadership (24.1%), independence of public institutions (20.1%), adherence to constitutionalism and rule of law (13.9%), instituting the process of justice, peace and reconciliation (13.9%), prosecution of perpetrators of crime (10.2%), encouraging dialogue and unity among warring factions (7.4%), promoting equal distribution of resources (6.5%), ensuring effective public participation in all stages of governance (4.6%), championing democratic reforms (4.6%), increased civic education (3.7%), regime change (0.9%) and encouraging patriotism among leaders and citizens. This finding was supported by interview conducted with a United Nation Staff who said the following:

“Peace in Congo is first and foremost a problem of Congolese people themselves before being that of the International Criminal Court or of foreigners and a third Country. It is a work of the Congolese government, the Congolese civil society, the Congolese community. It requires a national and political will. Congo needs a return from the state. DR Congo has to give work to the young people who at that time would no longer look for weapons, but rather go to work. Congolese must send children to school and ensure a better future. Talk to them about the common good and teach them living together.”

Source: (UN Staff in DR Congo)

CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter presents a summary and the key findings of the study according to the specific objectives of the research. It provides answers to the research questions, which are in line with the research objectives. On account of the findings, the study advanced targeted recommendations in terms of policy and practice for purposes of addressing barriers that impede peace building in DR Congo

5.2 Summary of the Study

The main objective of study was to examine the role of International Criminal Court (ICC) in peace building in DR Congo. Specifically, the study looked at the influence of ICC towards the attitudes of Congolese citizens, in strengthening institutions as well as the interventions the court uses to promote peace in DR Congo. The study adopted concurrent triangulation design that promoted the use of both quantitative and qualitative approaches. A combination of stratified and purposive sampling techniques was used to sample 150 respondents comprising of; human rights activists, lawyers, local opinion leaders, students, journalist, representatives of civil society and representatives of ICC in DR Congo. Primary data was collected using questionnaires while secondary data

was collected from document analysis, books, published journals and articles. Data collected from respondents was analyzed using descriptive analysis statistics such as frequencies and percentages and presented in form of graphs and tables with the help of the Statistical Package for Social Sciences (SPSS, Version 20) software.

5.3 Summary of Findings

5.3.1 Attitudes of Congolese citizens towards ICC

The study sought to understand the attitudes of Congolese citizens towards ICC because attitudes are often associated with acceptance and tolerability of peace building interventions. According to the findings, a quarter of the respondents indicated that Congolese citizens had a generally bad attitude towards ICC while majority of the respondents were not certain about Congolese citizen's attitudes towards ICC. This finding was supported with views of a former ICC representative in DR Congo who alleged that Congolese citizens have a negative attitude towards the actions of the ICC. According to him, the general negative attitude is as a result of the Court's decision to arrest Jean Pierre Bemba, a Congolese personality who was considered and seen as the alternative to the already hated power of President Kabila. The interviewee further argued that the decision went contrary to majority of the citizen's expectations because Jean Pierre Bemba was deemed to overturn President Kabila's rule. Additionally, the negative attitude of Congolese people towards the ICC's action in Congo stems from the fact that for the moment, only

African leaders and citizens are arrested and judged to the International Criminal Court.

5.3.2 Role of ICC in Strengthening Domestic Institutions to Guarantee Peace in DR Congo

Strong domestic institutions, is the foundation of a prosperous nation. The study evaluated the role played by the ICC in strengthening domestic institutions and established that interventions by the ICC were significant in strengthening institutions. It was revealed that ICC had modified the Congolese legal order while a range of institutional reforms had been introduced to adapt Congolese law to the Statute of the International Criminal Court. Among them, the Child Protection Act, passed and promulgated in 2009; The Sexual Violence Act, passed and promulgated in 2006; The amendment of the military penal code to adapt it to the agreement of the International Criminal Court. The creation of Juvenile Courts in all provinces of DR Congo; Congolese Courts and Tribunals have made several references to the provisions of the International Criminal Court in their decisions regarding serious human rights abuses and war crimes. Similarly, domestic institutions were strengthened capacity building of staff through seminars and trainings of various key actors in peace building process.

5.3.3. Overall Role of ICC in Peace Building in DR Congo

Evaluating the role played by the ICC in peace building in DR Congo was the ultimate objective of the study. According to the findings, majority of the respondents indicated that ICC had not succeeded in building peace in DR Congo.

However, the study established that notable progress had been made towards promoting peace in DR Congo. It was reported that arrest of Thomas Lubanga, Mathieu Ngudjolo and other criminals was an important step towards building peace in DR Congo. The participants perceived this move as crucial because it imposed a certain degree of peace in the country and deterred commission of crime in the country. It was further revealed that the adoption of provisions of International Criminal jurisprudence by the domestic courts has helped in promoting justice. Additionally, the study established that ICC has contributed much to the moral peace of the victims, who, through the work of the ICC, have found the moral and psychological peace of knowing that their criminals have been arrested and sentenced. For the fact that the International Criminal Court and the Congolese courts have convicted the criminals, the victims have found some kind of peace. Given that the Court created the victims' fund in Congo and this goes to the victims and gives them some moral, psychological and even material supports, the Court contributes to the establishment of peace in the Congo. According to Branch (2004b), ICC has had notable successes, particularly the arrest and trials of Lubanga, Katanga and Ngudjolo. The conviction of Lubanga increased awareness that conscription and use of children soldiers constitutes a crime under international law and more specifically, crimes under the Rome Statute. For example, in Ituri, many children were chased away from the militia groups.

5.3.4 Strategies of Building Peace in a Divided Society

It was evident from the study that pockets of violence and crime in some parts of DR Congo threatened and stability of the country. Conflict mainly caused by fight over resources escalated to ethnic clashes causing death and destruction of property. Equally, the study established that there was lack of political good will to end the conflict in DR Congo as some leaders took advantage of the volatile situation to loot public resources. According to the respondents, in order to realize sustainable peace in DR Congo, the following measures should be put into consideration: Good governance and leadership, independence of public institutions, adherence to constitutionalism and rule of law, instituting the process of justice, peace and reconciliation, prosecution of perpetrators of crime, encouraging dialogue and unity among warring factions, promoting equal distribution of resources, ensuring effective public participation in all stages of governance, championing democratic reforms, increased civic education, regime change and encouraging patriotism among leaders and citizens.

Policy implications

The results of the present research confirmed that the role of the International Criminal Court in the process of peace development in DR Congo must be recognized as effective.

Substantial findings of this study, back up by views of experts collected from interviews pointed out that ICC's involvement in DR Congo was very influential

in peacebuilding process. Conflicts have been reduced and weakened overtime, and in that process of reducing and weakening conflicts, arrests of criminals by ICC was significant. Furthermore, a number of domestic institutions to guarantee peace have been established or strengthened. Children have been chased away from armed forces and rebel groups, while awareness of crimes under international law was increased.

Recommendations

Based on the findings of this study, the researcher recommends the following policy actions towards addressing the gaps identified by the study.

The researcher recommends that in order to sustain peace in DR Congo there is an overriding need to create and sustain stronger domestic institutions that would complement the ICC and each other. It should be understood that attainment of peace is not only a function of arrests of perpetrators but rather existence of functional, independent and stronger institutions founded on rule of law and democracy.

In most cases, war and conflict thrive in an environment where there is anarchy and absence of rule of law. Therefore, the study recommends further judicial reforms that will promote speedy investigations, prosecutions and reparations of war crimes in order to build public trust and confidence in local courts as citadel of justice. More importantly, the judicial arm of government should be restructured in order to try international crimes.

Conclusion

According to the findings, the confirmed as true the hypothesis indicating that the role of ICC has a positive influence on the strengthening of domestic institutions in DR Congo. Similarly, the study confirmed the hypothesis indicating that there is a significant positive relationship between ICC and peace building process. However, the study found a negative relationship between Congolese citizen's attitudes and role of ICC in peace building in DR Congo.

Therefore, the study concludes that ICC's role of peace building in DR Congo has made tremendous contributions towards strengthening domestic institutions and promoting overall peace in the country. However, the court has not succeeded in developing people's positive attitudes towards the role of international judicial systems like the ICC in enhancing peace. What this means is that, when people have negative attitudes towards the court, they are less likely to own and support the ICC's activities of peace building.

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APPENDICES

Appendix 1: Introduction Letter

August2, 2018

Dear Participant,

RE: ACADEMIC RESEARCH PROJECT

My name is Thierry KISUKULU ASIANANDE. I am a student at Seoul National University. As part of my course work; I am required to carry out a research in partial fulfillment before the award of master's degree in Area Studies. It is for this reason that I am undertaking a study on the "*Role of International Criminal Court (ICC) in peace Development in DR Congo since 2002.*" Please note that this study is purely academic and any information or data sought will be treated with highest level of confidentiality and strict ethical principles will be observed to ensure that the study outcomes and reports will not include reference to any individuals. Your acceptance will be highly appreciated. Thanks

Yours Sincerely

Appendix 2: Questionnaire for Students, Human Rights Activists, Lawyers, Local Opinion Leaders, Civil Society Representatives

Dear Respondent,

Thank you for your willingness to participate in this survey. My name is Thierry KISUKULU ASIANANDE. I am a student at Seoul National University. As part of the requirement for my course, I am undertaking a study on the role of International Criminal Court (ICC) in peace Development in DR Congo since 2003. Your participation in this survey is voluntary and any information collected will remain confidential and would be used specifically for the purpose of this study. The questionnaire is quite brief and would not take more than 5 minutes. Thank you for your time.

Do you wish to participate in this study? Yes [☐] No [☐]

Kindly read each question keenly and respond to it the best of your ability and where necessary mark [√] the boxes provided. There are no accurate or inaccurate responses; your answers are crucial to the study. All replies to this survey are completely confidential. All identifying information if any will be removed during the data entry and analysis; however, you are advised to respond anonymously.

SECTION A: DEMOGRAPHIC INFORMATION

1. Gender

Male (☐) Female (☐)

2. Marital status

Married (☐) Single (☐) Divorced (☐) Widowed (☐) Separated (☐)

3. Check your appropriate age group

18-25 years (☐) 26-35 years (☐) 36-45 years (☐) 46-55 years (☐) 56-65 years (☐) over 65 years (☐)

4. What is your highest education level attained?

University (☐) College/Tertiary (☐) Secondary (☐) Primary (☐) others.....

5. What is your occupational status?

Formal employment () Self-employed () Casual labour () Not employed ()
Farmer () others specify ()

6. For how long have you been working?

1-5 years () 6-10 years () 11-15 years () 16-20 years () Over 20 years
()

SECTION B: ATTITUDES OF CONGOLESE CITIZENS ON ICC'S WORK OF PEACE BUILDING IN DR CONGO

7. How would you rate the attitudes of Congolese people towards ICC's work of
peace building in DR Congo?

Very Good () Good () Uncertain () Bad () Very Bad ()

8. In your own opinion, rate the following statements in relation to attitudes of
Congolese towards ICC work and peace development in Congo. Use a scale of 1-
5 where 1= strongly disagree and 5= strongly agree

Statements	Strongly agree	Agree	Uncertain	Disagree	Strongly disagree
a) The Congolese citizens support interventions of ICC in DR Congo					
b) The Congolese citizens have faith in ICC's ability to arrest and prosecute perpetrators of crimes against humanity					
c) The citizens perceive ICC as the best hope of promoting justice and peace in DR Congo					
d) Citizens support the ICC by acting as key witnesses during trial of suspects of crimes					

against humanity in DR Congo					
e) The citizens perceive ICC as a neutral party in addressing cases of human rights violation					
f) The citizens don't like the ICC because it has failed to prosecute offenders of heinous crimes					
g) The citizens believe that ICC lacks capacity to go after the major perpetrators of crimes against humanity					
h) The citizens believe that ICC's presence in DR Congo has interfered with the sovereignty of the country					
i) The citizens believe that ICC is guided by vested political interest and not to promote fairness and justice					
j) The citizens believed that the ICC prosecutor always conducts shoddy investigations thereby leading to poor convictions					
k) Majority of citizens feel that DR Congo should pull out of the ICC due to the court's ineffectiveness in promoting justice					
l) Majority of the Congolese citizens are of the view that ICC has lost credibility because it targets African countries					

9. Please suggest ways of promoting attitudes of Congolese citizens towards ICC as a peace building instrument in DR Congo?

.....

.....

.....

SECTION C: ROLE OF ICC IN STRENGTHENING DOMESTIC INSTITUTIONS TO GUARANTEE PEACE IN DR CONGO

10. Do you think the intervention of ICC has strengthened domestic institutions to guarantee peace in DR Congo? Yes [☐] No [☐]
11. In your own opinion, to what extent has ICC's work contributed to the strengthening of domestic institutions in DR Congo? Use a scale of 1-5 where 1= strongly disagree and 5= strongly agree

Statement	Strongly agree	Agree	Uncertain	Disagree	Strongly disagree
a) The ICC has enhanced establishment and independence of domestic institutions that guarantee peace and prevent conflict in DR Congo					
b) The ICC has promoted the rule of law in DR Congo					
c) The ICC has promoted the economic growth and development in DR Congo					
d) The ICC has enhanced the development of civil society in DR Congo					
e) The ICC has promoted the independence of the judiciary in DR Congo					
f) The ICC has enhanced the independence of the electoral body					

g)	The ICC has promoted education and training among the citizenry					
h)	The ICC has promoted freedom of the media					
i)	The ICC has enhanced strengthening of family institution					
j)	The ICC has not helped the victims of post-election violence					
k)	The ICC has not been effective in championing the freedom of media, civil society and government institutions					
l)	The ICC has failed in protecting the identity of key witnesses during trial					
m)	The ICC has failed in enhancing justice, peace and reconciliation in DR Congo					
n)	The ICC has not been effective in involving local residences during gathering of evidence and prosecution of major perpetrators of crimes					
o)	The ICC's office in DR Congo is not accessible to residents					

12. Please suggest initiatives which can be adopted by the ICC in order to strengthen institutions towards peace building in DR Congo?

.....
.....

SECTION D: ROLE OF ICC IN PEACE BUILDING IN DR CONGO

13. Do you think ICC has succeeded in building peace in DR Congo?

Yes () No ()

14. In your own opinion, to what extent has ICC helped in building peace in DR Congo?

Use a scale of 1-5 where 1= strongly disagree and 5= strongly agree

Statement	Strongly agree	Agree	Uncertain	Disagree	Strongly disagree
a) The prosecutions of key suspects by the ICC has deterred commission of crimes in DR Congo					
b) The ICC's humanitarian support has helped in settlement of IDPs and refugees					
c) The ICC interventions has led to ceasefire and decrease in the number of violent conflicts					
d) The interventions by the ICC has promoted creation of alternative dispute resolution mechanisms					
e) The efforts by the ICC has promoted the coexistence among the residents of Congo					
f) Initiatives by the ICC has promoted political inclusivity					
g) Initiatives by the ICC has resulted in peaceful elections					
h) The ICC has succeed in promoting peaceful transition of power in DR Congo					
i) The ICC has failed in addressing historical injustices that hinder peace in DR Congo					
j) The ICC has not promoted justice for victims of violent conflict					
k) Commission of worst crimes against humanity are being committed despite the					

presence of ICC in DR Congo					
l) DR Congo is faced with security threats that threaten peace and stability					
m) There is lack of effective collaboration between ICC personnel and DR Congo government in bringing perpetrators of crime into justice					
n) The ICC has not succeed in preventing genocide, war crimes and crimes against humanity in DR Congo					

SECTION E: STRATEGIES OF BUILDING PEACE IN A DIVIDED SOCIETY

15. How would you rate number of conflicts in D R Congo?

Very High () High () Average () Low () Very Low ()

16. What do you think is the main cause of conflict in D.R. Congo?

.....
.....
.....

17. What strategies would you suggest towards building peace in a divided society like Congo?

.....
.....
.....
.....
.....

END: THANK YOU

Appendix 3: Semi structured interview guide for UN Personnel, Journalists, and ICC Representative

Information to be read to all respondents

This survey is seeking your views on the role of International Criminal Court (ICC) in peace building in DR Congo. Please note that this is an academic study and whatever information you will provide will be treated with total confidentiality and used for academic purposes only. As a participant, you have a right to opt out of this discussion at will and at any time. You can also have access to the transcript of this if you wish. Thank you

SECTION A: ATTITUDES OF CONGOLESE TOWARDS ICC

1. How would you describe the Congolese's attitudes towards the ICC?
2. How do attitudes of residents influence the ICC's efforts towards peace building?
3. How can ICC enhance its image as a promoter of peace and justice in DR Congo?

SECTION B: ROLE OF ICC IN STRENGTHNING INSTITUTIONS TO GUARANTEE PEACE IN DR CONGO

- a) What is the contribution of ICC towards strengthening of institutions to guarantee peace such as the government, judiciary, civil society, and media in DR Congo?
- b) To what extent has the ICC influenced the establishment of institutions to guarantee peace in DR Congo?
- c) How can ICC enhance development of institutions to prevent conflict in DR Congo?

SECTION C: OVERALL ROLE OF ICC IN PEACE BUILDING IN DR CONGO

- a) What are some of the interventions adopted by the ICC in building peace in DR Congo?
- b) To what extent has the ICC succeeded in building peace in DR Congo?
- c) How can the ICC enhance its role of peace building in DR Congo?

SECTION D: PEACE BUILDING IN A DIVIDED SOCIETY

- a) What are some the challenges facing ICC in promoting peace?
- b) What measures would you suggest towards building a lasting peace in DR Congo?

END. THANK YOU

논문초록

본 연구는 지각적 측면에서 국제형사재판소의 콩고민주공화국 평화구축과정에 대한 역할을 조사하고자 한다. 특히, 본 연구는 콩고의 국내기구 강화를 통한 평화보장에 있어 국제형사재판소의 역할과 영향에 대한 콩고 시민들의 인식을 살펴보고자 한다.

본 연구의 방법론으로는 양적 및 질적 접근 방법 동시에 사용하는 삼각측량 설계를 채택하였다. 또한, 인권 운동가, 변호사, 지역 오피니언 리더 및 학생으로 구성된 150 명의 응답자를 샘플링하기 위해 목적 및 층화 샘플링 기술을 조합하여 사용하였다. 수집된 데이터는 백분율 및 빈도와 같은 설명 분석 통계를 사용하여 분석되었으며 SPSS, 버전 20 소프트웨어의 기여와 함께 그래프 및 표 형식으로 제공되고 국제형사재판소의 대표 및 언론인, 시민단체 대표 등의 인터뷰를 통해 수집된 전문가의 견해에 의해 뒷받침되었습니다.

이 연구의 핵심 연구 결과는 세 가지 가설을 입증했다. 첫째, 콩고 시민의 태도와 국제형사재판소의 역할 사이에 부정적인 관계가 있음을 발견했다. 시민들의 부정적인 태도는 국제형사재판소로부터의 높은 기대와 카빌라 대통령의 권력에 대한 대안으로 간주되는 콩고 인물인 장 피에르 뱅바 (Jean Pierre Bemba)를 체포하겠다는 법원의 결정에 기인 한 것이다. 둘째, 이 연구는 국제형사재판소의 개입이 평화보장을 위한 국내 기관의 강화에 중요하다는 사실을 발견했다. 국제형사재판소는 콩고의 국내법을 국제형사재판소의 협약에 적용하기 위해 도입된 다양한 제도 개혁으로 콩고 법령 전체를 수정했다.

마지막으로이 연구는 국제형사재판소가 콩고 민주 공화국에 개입 한 것이 전반적인 평화 구축 과정에 영향을 미쳤음을 입증했다. 군대와 민병대에서 아이들을 사용하는 주요 범죄자들의 체포는 아이들이 군대에 사용되어서는 안된다는 인식을 높이고있다. 따라서 다른 무장 단체 등에서 아동의 사용을 줄이는 데 기여했다.

본 연구의 실질적인 의미는 콩고 민주 공화국의 평화 구축 과정에서 국제형사재판소의 역할이 효과적인지 확인하는 것이다.

실마리어: 국제형사재판소, 평화구축, 분쟁 후 사회

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